

**SOCIETY OF
CONSTRUCTION LAW
MALAYSIA**

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**SCL MALAYSIA
NEWSLETTER**

SEPTEMBER 2025, VOL. 1



PRESIDENT'S NOTE

Dear Members and Friends of SCL Malaysia,

It gives me great pleasure to welcome you to the very first edition of the SCL Malaysia e-newsletter. With this quarterly publication, we hope to keep you updated on the Society's activities, share highlights from past events, and provide a glimpse of what lies ahead.

Since May 2025, the dedication and hard work of our committees have allowed us to host a series of meaningful initiatives. These include insightful webinars, a talk held in conjunction with the KL ADR Week, as well as a light-hearted social event where members enjoyed a fun game of pickleball together. Looking ahead, we are excited about our upcoming webinar at the end of September and the year-end socials now in the works.

In addition, we are exploring collaborations with local universities on courses relating to the SCL Delay and Disruption Protocol, furthering our mission to promote the education and practical application of construction law.

At SCL Malaysia, we believe it is important to remain connected to the wider industry community, and we strive to provide platforms that facilitate both professional learning and meaningful networking.

A special word of thanks goes to the editorial team for putting this inaugural newsletter together. We hope you will find it informative and engaging, and we look forward to your continued support and participation in our activities.

A handwritten signature in black ink, appearing to read 'Serene Hiew'.

SERENE HIEW MUN YI
PRESIDENT, SCL MALAYSIA

NEWS & EVENTS



KUALA LUMPUR ADR WEEK – SCL REGIONAL SESSION

(RIGHT TOP) SCL REGIONAL, (RIGHT BOTTOM) SCL MALAYSIA VICE PRESIDENT SPEAKING AT THE SCL REGIONAL EVENT

Society of Construction Law Malaysia (SCL Malaysia) was thrilled to be a part of the Society of Construction Law Regional Session, organised as part of the Kuala Lumpur ADR Week by Legal Plus and L2. The representatives from the regional societies spoke and discussed about ‘*Construction Dispute Challenges & Innovations*’ in their respective countries.



The Society of Construction Law Malaysia (SCL Malaysia) was represented by its present Vice President, **Kalaiarasan Rasadurai** who provided his insights among the esteemed panel. SCL, Malaysia highlighted its history, key projects, national challenges that the society seeks to address and the best practice in addressing disputes in Malaysia.

SCL MALAYSIA TALK – IS HOT TUBBING BOILING OVER?

(RIGHT TOP AND BOTTOM): SCL MALAYSIA PRESIDENT WITH THE PANEL OF SPEAKERS AT THE HOT-TUBBING EVENT

On 3 July 2025, SCL Malaysia hosted an insightful talk titled “Is Hot Tubbing Boiling Over?” Exploring the evolving practice of concurrent expert evidence in construction disputes. The session was moderated by **Amy Hiew**, with an experienced panel comprising **Rajendra Navaratnam**, **Rodney Martin**, and **Ivan Loo**.

The speakers shared practical perspectives on the benefits and challenges of “**hot tubbing**,” sparking lively discussion among attendees. The event concluded with networking over refreshments.

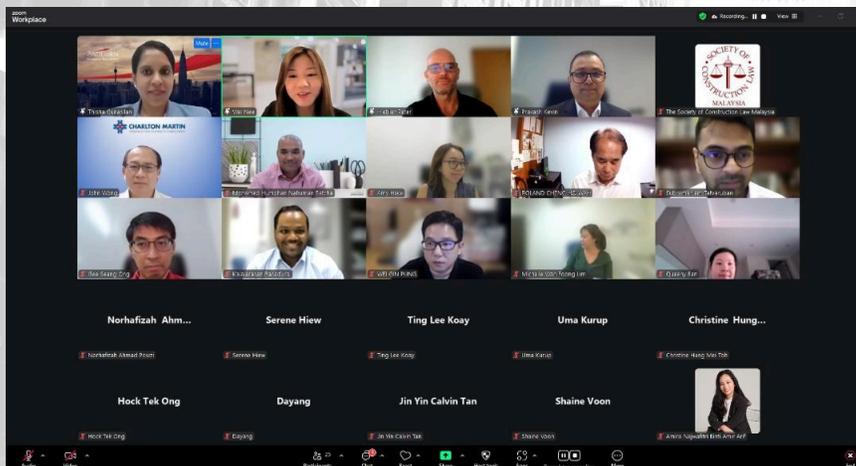
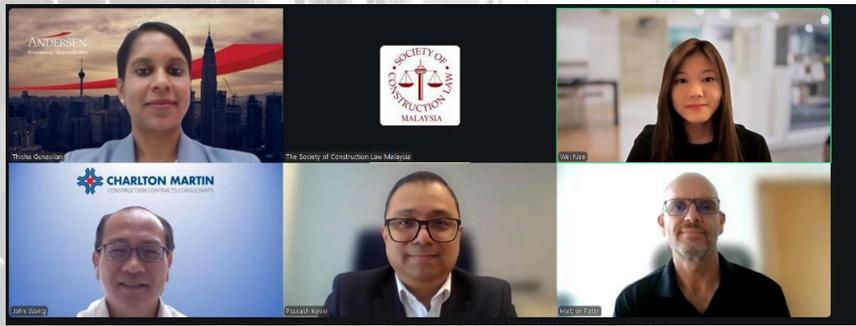


SCL PICKLEBALL SOCIAL

21 AUG 2024 @ PICKLE PARK SEC 14, PJ

🌟 A night of DINKs and Aces at SCL Socials: Pickleball Edition! 🌟

It was great to see our members, construction law practitioners and friends duelling on the court and connecting off the court.



WEBINAR – MANAGING CONSTRUCTION PROJECTS: STRATEGIES FOR COMPLIANCE, CONTROL AND COMMERCIAL MANAGEMENT

On 30 September 2025, SCL Malaysia brought together industry experts for an engaging webinar on Managing Construction Contracts: Strategies for Compliance, Control and Commercial Management.

Our speakers, **Peter Hiebler**, **Kevin Prakash** and **Thisha Gunasilan**, guided participants through the ins and outs of contract management from the consultant's lens, the legal counsel's perspective, and even the tax angle.

Moderated by **Wei Nee**, the session was packed with practical insights, with Thisha also unpacking the latest SST changes impacting the construction industry. It was an eye-opening discussion that gave attendees a 360° view of managing contracts effectively.

More Events Coming Soon!!



LATEST CONSTRUCTION CASES

Samsung C&T Corporation UEM Construction JV Sdn Bhd v Berkat Honeywell Sdn Bhd [2025] MLJU 2101

Samsung C&T Corporation UEM Construction JV Sdn Bhd (“**Samsung**”), a joint venture involved in a large-scale project engaged Berkat Honeywell Sdn Bhd (“**Honeywell**”) as a subcontractor. Honeywell initiated adjudication proceedings under CIPAA 2012 and the adjudicator ruled in its favour. Samsung challenged the adjudication decision. Key issues before the High Court are whether the adjudicator had exceeded jurisdiction or committed a breach of natural justice.

The High Court held that the Adjudicator had exceeded his jurisdiction:

- a) the Adjudicator proceeded with the determination despite a payment claim being defective lacking crucial details such as a “due date” for payment;
- b) the Adjudicator considered IPC No. 81 when Honeywell’s Payment Claim referred to IPC No. 74, thereby acting outside the scope of the Payment Claim.

The High Court further held that the Adjudicator’s conduct amounted to a denial of natural justice:

- The adjudicator dismissed Samsung’s claim for set-off of Liquidated Ascertained Damages (LAD) on the ground that it had not been raised prior to Honeywell’s payment claim without affording Samsung an opportunity to address the issue.
- Furthermore, Honeywell had not raised any jurisdictional objection, yet the adjudicator’s unilateral decision to exclude the LAD claim without inviting submissions from either party; hence, it was procedurally inappropriate.

The High Court concluded that Samsung had successfully established valid grounds to set aside the Adjudication Decision.

Pe Setia Construction Sdn Bhd v Mangkubumi Sdn Bhd [2025] MLJU 1867

The dispute arose from a construction contract between Pe Setia Construction Sdn Bhd (“**Pe Setia**”, subcontractor) and Mangkubumi Sdn Bhd (“**Mangkubumi**”, main contractor). Pe Setia claimed unpaid sums for works completed and loss of profit due to the termination of the contract, while Mangkubumi raised back charges.

The High Court reviewed Pe Setia’s payment claims and Mangkubumi’s back charges. The court emphasized that claims must be supported by clear documentation and that both parties must be given a fair chance to respond.

The High Court examined the contractual provisions governing termination and the conduct of both parties leading up to the termination. The High Court held that the termination of the Plaintiff’s subcontract was lawful:

- a) Pe Setia had been given sufficient time and notice to rectify its defaults, including a final seven-day notice issued on 13 January 2021
- b) Mangkubumi had validly exercised its right to terminate under Clause 51.1(b), and that the termination was procedurally and contractually sound.

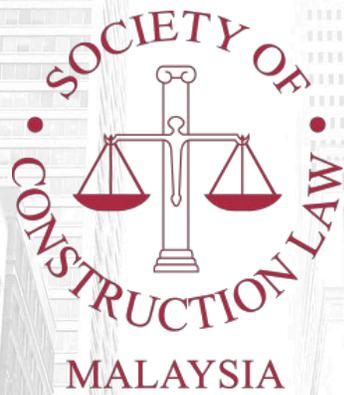
On the basis the termination was deemed lawful, the Court concluded that Pe Setia was not entitled to claim loss of profit.



SCL
Year-End
Social

Save the Date

**12 December 2025, Friday
7pm**



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