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Damien McDonald

Admissions

2021	Barrister, England and Wales
2020	Barrister, Hong Kong
2019	Solicitor Advocate (Higher Courts Civil Proceedings) (England and Wales) (Non-practising)
2016-2019	Solicitor, Hong Kong
2008	Solicitor, England and Wales (Non-practising)
2003	Barrister* and Solicitor, Northern Territory, Australia
2001	Barrister* and Solicitor, High Court of Australia
2001	Barrister and Solicitor, Victoria, Australia (Non-practising)

Academic

1999	BA, LLB (Hons), University of Tasmania
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Practice profile

Damien is a barrister and arbitrator who focuses on international arbitration in Hong Kong, mainland China, the region, and internationally.

He also practices English law from Outer Temple Chambers in London and Australian law from William Forster Chambers in Darwin.

Before joining the bar, Damien was an international arbitration partner and registered foreign lawyer with Fangda Partners in Hong Kong (2014 to 2019) and a senior associate with Herbert Smith Freehills in London, Shanghai, and Beijing (2006 to 2013).

Damien commenced his legal career in Australia, where he trained and practised with Mallesons Stephen Jaques (now King and Wood Mallesons) in Melbourne (2000-2003) and Cridlands Lawyers in Darwin (2003 to 2005).

Damien is a Fellow of the Chartered Institute of Arbitrators and the Australian Centre for International Commercial Arbitration. He is also on the HKIAC List of Arbitrators and a CEDR and HKMAAL-qualified mediator.

Recent instructions and appointments

Arbitration counsel work

- Lead counsel with a US law firm in a HKIAC arbitration between a US party and a Chinese party concerning an international sale of goods case involving PPE. (Hong Kong law)
- Advising and drafting the Answer in a HKIAC arbitration between a foreign and a Chinese party concerning an M&A accounting dispute. (Hong Kong law)

- Advising and drafting the Answer in a HKIAC arbitration concerning an aircraft-leasing dispute. (Hong Kong law)
- Advising US law firm in relation to a potential application to set aside application for a Hong Kong award. (Hong Kong law)

Arbitrator appointments

- Sole arbitrator in a HKIAC arbitration involving a sale of goods claim between a Hong Kong and an international party (Hong Kong law)
- Sole arbitrator in a HKIAC expedited arbitration relating to an international sale of goods case (rolled steel) between international parties (English law)
- Sole arbitrator in a HKIAC arbitration (Expedited) concerning a payment claim under a receivables contract and guarantee. (Hong Kong law)
- Sole arbitrator in an ICC arbitration (Expedited) in relation to a Distributorship Agreement between Hong Kong parties. (Hong Kong law)

Litigation counsel work – NT, Australia

- *Whittaker v Pettersson & Ors* [2024] NTSC 10, led by Dr Cameron Ford OAM
- *McCasker v OMAD (NT) Pty Ltd (No 3)* [2023] NTSC 68 led by Dr Cameron Ford

Work as counsel in arbitration and litigation and instructions as a solicitor/ arbitration counsel

International arbitration

- Acting in a HKIAC arbitration for an investment fund in a claim to recover a deposit under a SPA and defence of a counterclaim alleging unlawful termination
- Acting for an Asian investment fund in a HKIAC arbitration in respect of its investment in Mongolia
- Acting for a leading international hospitality company in a HKIAC arbitration in respect of a hotel management contractual dispute with a mainland Chinese real estate developer/building owner
- Acting for a respondent in a HKIAC arbitration in respect of the sale of shares in a joint venture company and transfer of control of business in China
- Acting for a foreign investor in an ICC arbitration seated in Hong Kong in respect of a joint venture dispute with a mainland Chinese party
- Acting for a leading Chinese company in a SIAC arbitration in a dispute relating to trade secrets/ownership of technical designs for petrochemical plants in China
- Acting for a leading international investment bank in a HKIAC/UNCITRAL arbitration in relation to a private equity investment dispute
- Acting for a Chinese petrochemical company in a CIETAC Beijing (UNCITRAL Rules) arbitration

Litigation

- Hong Kong High Court actions relating to breach of contract and email fraud
- *BSkyB Ltd & Anor v HP Enterprise Services UK Ltd & Anor* [2010] EWHC 86 (TCC) (26 January 2010)

- Commercial litigation in the Northern Territory and Federal courts with an emphasis on resources and construction-related disputes (2003-2005)
- Commercial litigation in the Victorian and Federal courts with an emphasis on banking and insolvency-related disputes (2001-2003)

Books and chapter contributions

- Halsbury's Hong Kong, Misrepresentation and Fraud. With Kevin Lee and Josh Baker (2022)
- Chinese Arbitration Law, Individual Contributor, Co-Author and Co-editor with Peter Yuen and Arthur Dong, Lexis Nexis, Hong Kong (2015)
- "China and Hong Kong", Arbitration of M&A Transactions, Justin D'Agostino, Damien McDonald, May Tai and Fanny Tam, Global Law and Business (2014)
- State Secrets and Trade Secrets in China, Damien McDonald and May Tai, Sweet & Maxwell, Hong Kong (2010)
- "Awards of Punitive Damages", Jessica Fei, Damien McDonald and Eunice Bai, Post Hearing Issues in International Arbitration, Juris Publishing, (2013)
- "Arbitration with Chinese Characteristics (有中国特色的仲裁)", Jessica Fei and Damien McDonald, Contemporary Issues in International Arbitration and Mediation, The Fordham Papers (2012)

Seminars, speaking engagements and journal articles

- Guest lecturer to Peking University ICDR Course on "International arbitration: an introduction to pleadings and written advocacy" (2022, 2023 and 2024)
- Presentation "Managing MENA and China-related M&A Disputes" at the 7th Annual Qatar & MENA International Arbitration Virtual Summit (2022)
- Presentation on "Arbitrating M&A Disputes – Protecting and Defending Value" for Annual International Arbitration and Corporate Crime Summit (2022)
- In-house training to international Chinese law firm on international arbitration
- Lecture to Australian National University, International Commercial Arbitration, Postgraduate Course on "Effective Advocacy in International Arbitration" (2021)
- Presentation of the 8th CIETAC mini-lecture on "Managing Expert Evidence-The Fundamentals of Process and Preparation" (2021)
- Panelist for seminar on "Legal Privilege and the Client under English and Hong Kong law: A refresher for in-house legal professionals" for Law Society of Hong Kong In-House Lawyers Committee (2019)
- Panellist and workshop leader for Fangda Partners workshops with BenchMark and Sinasure in Shenzhen and Guangzhou (2019)
- Hong Kong and Mainland China Agree upon Bilateral Arrangement Regarding Interim Measures for Arbitration, Kluwer Arbitration Blog, Peter Yuen, Helen H. Shi, Damien McDonald, Olga Boltenko and Matthew Townsend (2019)
- Dual language or bilingual arbitrations: five points for parties, China Business Law Journal, Damien McDonald and Matthew Townsend(2019)
- Commercial Arbitration Review, 2018, Financier Worldwide (2018)
- Panelist on Hong Kong Arbitration Week HFW sponsored panel "The Interaction between Arbitration and Insolvency Law" (2018)

- Hong Kong Court Grants Execution Against PRC State-Owned Enterprise, Rejecting Its Claim of Crown Immunity, Hong Kong Lawyer, Damien McDonald and Matthew Townsend (2017)
- Speaker on “Third Party Funding in International Arbitration”, 3rd Annual International Arbitration, Compliance & Competition Law Summit (Beijing) (2017)
- In House Congress Hong Kong, Workshop leader on “28 Days – A Complex PRC Dispute in Action” (2017)
- Hong Kong Court Opens Door to Winding Up Foreign Company Arbitration Award Debtor on Basis of Its Secondary Listing in Hong Kong, Hong Kong Lawyer, Damien McDonald and Matthew Townsend (2017)
- 4th Annual International Arbitration, Compliance & Competition Law Summit (Japan); Panelist, Managing Expert Witnesses in the Arbitration Process and Avoiding the Common Problems – Advising In House Counsel (2017)
- In-house client seminar on Third-Party Funding and international arbitration (2017)