

Francis Douglas QC

Admitted to the bar 1975

Appointed QC in 1988

Entitled to practise in all Australian jurisdictions

Awards or professional recognition

Who's Who Legal 2021; Leading Commercial Arbitration

Best Lawyers 2013 – 2020; ADR and Commercial and Litigation

Doyle's List 2019; Leading Mediator (NSW)

Selected Cases as a Junior

Commonwealth of Australia v State of Tasmania (the *Tasmanian Dams* case) (1983) 158 CLR 1, as junior to R J Ellicott QC and AM Gleeson QC for Tasmania

Counsel Assisting the *Royal Commission into Drug Trafficking through the Bahamas* (1983-1984) as junior to R J Ellicott QC

Moorgate Tobacco Co Ltd v Philip Morris Ltd (1984) 156 CLR 414 as junior to R S Alexander QC of the London Bar

Practice as a Silk

Since taking silk in 1988 Mr Douglas has appeared in the High Court and other intermediate appellate courts on numerous occasions. He was for a very short period a Justice of the Court of Appeal in Fiji and the Supreme Court of that country (see *Qarase v Bainimarama* [2009] FJCA 9: 9 April 2009)

Recent matters in which Mr Douglas QC has been briefed include:

- As Senior Counsel for the applicant in proceedings in the Federal Court of Australia concerning the wrongful payment of GST refund by the ATO to the applicant's accountant in fraud on the applicant (*Farah Custodians Pty Ltd v. Commissioner of Taxation*).
- As Senior Counsel for an international tender hire company, in an arbitration against a major oil company off the northwest coast of Australia (2017) (concluded).
- As Senior Counsel for the claimant in an arbitration relating to the supply of offshore support vessels to an offshore oil and gas installation [2017]
- As Senior Counsel for *AEGP Australia Ltd v Armour Ltd* [2016] QCA 153 (contractual dispute as to specific performance of an agreement between two Oil and Gas companies)

- As Senior Counsel in a class action for the Franchisors of Pizza Hut in a class action against Pizza Hut [2016] FCA 43 on appeal
- As Senior Counsel for the applicant in proceedings in the Federal Court against Christies and others in relation to the sale at auction of forged artworks (*McBride v Christie's and ors* [2014] NSWSC 1729)
- As Senior Counsel for the applicant in proceedings in the Federal Court arising out of the Cascade Coal scandal *Addenbrooke v Duncan* [2015] FCA 793; appeal allowed [2017] FCAFC 76
- As Arbitrator (as part of a SIAC panel) of a dispute concerning the construction of wind farms in the Philippines.
- As Senior Counsel for the appellant in *Carslow Castle Pty Ltd trading as Greenhill Capital Partners v Aztec Resources Ltd* [2014] NSWCA 123 (liability to payment of a success fee)
- As Senior Counsel for the claimant in an arbitration before the Hon Ian Callinan AC concerning the value of a substantial parcel of subdivisational land in Brisbane, Queensland [2014] – [2017]
- As Senior Counsel for a major marine dredging company in a construction cost overrun dispute (\$500 million) in relation to the development of a major offshore LNG facility in WA [2013] — [2014]
- As Senior Counsel for a Chinese steel mill in enforcement and appeal proceedings in the Supreme Court of Western Australia arising out of an arbitration award by the Hon AM Gleeson AC in excess of AUD\$100million (*Rizhao Steel Holding Group Ltd v Mount Gibson Iron Ore & Anor* [2010] WASG 385) and in subsequent arbitration proceedings [2013]
- As mediator of a dispute concerning the construction of an iron ore mine in Western Australia between a Chinese construction company and its Australian subcontractors [2013]
- As mediator of a construction dispute concerning "The Ivy" Restaurant premises in Sydney [2013]
- As mediator of a major construction dispute concerning the construction of a paper mill in NSW [2013]
- As Senior Counsel in a series of cases in Queensland concerning a joint venture in relation to the development of a major parcel of land on the outskirts of Brisbane (*Mango Boulevard Pty Ltd v Spencer* [2010] QCA 209, [2013] QCA 271)
- As counsel for Kosciusko Thredbo Ltd in Federal Court proceedings concerning the domain name Thredbo.com.au [2013] FCA 563 and on appeal [2014] FCAFC 87
- As arbitrator (as part of a panel) of a dispute concerning a \$200 million construction cost overrun in relation to the construction of gas pipelines for the transport of coal seam methane, Queensland [2013] – [2015].
- As Senior Counsel for Deutsche Bank in the M F Global Liquidation (In *Re M F Global Australia Ltd (in liq)* [2012] NSWSC 994)
- As mediator of a construction dispute concerning the upgrading of the leaching circuit at Olympic Dam [2012]
- As sole arbitrator in a dispute between a major Australian steel company and its contractors [2012]
- As sole arbitrator of a dispute between two mining companies as to the admission of a proof of debt in a winding-up [2012]
- As Senior Counsel for the State of New South Wales against Boral Ltd in an arbitration before The Hon A M Gleeson AC, concerning the supply of timber from the NSW State Forests [2012]

- As Senior Counsel for a Chinese steel mill in an arbitration for the enforcement of a contract for supply of iron ore against an Australian iron ore miner [2012]
 - As Senior Counsel for the Independent State of Papua New Guinea, in an arbitration before the Hon A M Gleeson AC concerning an offshore mining project in the Bismark Sea [2012]
 - As sole arbitrator in relation to a dispute between a Japanese company and an Australian construction company concerning the warehouse premises of the Japanese company in Australia [2012]
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Significant cases in the High Court as silk include:

- *E & J Gallo Winery v Lion Nathan Australia Pty Ltd* [2010] HCA 15 (Trade marks)
 - *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* [2007] HCA 22 (Equity; fiduciary duties)
 - *Bayside City Council v Telstra Corporation Ltd* (2004) 216 CLR 595 (Constitutional Law)
 - *Tanwar Enterprises Pty Ltd v Gauchi* (2003) 217 CLR 315 (Equity: penalties and forfeiture)
 - *Rural Press Ltd v ACC* (2003) 216 CLR 53 (Trade Practices)
 - *Moltoni Corporation Pty Ltd v QBE Insurance Ltd* (2001) 205 CLR 149 (Insurance)
 - *In re Associated Alloys* (2000) 202 CLR 588 (Corporations; Romalpa clauses)
 - *Re Wakim ex parte McNally* (1999) 198 CLR 511 (Constitutional Law; Judicial Power)
 - *Clenae Pty Ltd v ANZ Banking Group Ltd* [2000] 205 CLR 337 (Judicial bias)
 - *Gould v Brown* (1998) 193 CLR 346 (Constitutional Law; Judicial Power)
 - *Immer (No 145) Pty Ltd v Uniting Church in Australia Property Trust (NSW)* (1992) 182 CL.R 26 (Contract; election)
 - *Devenish v Jewel Food Stores Pty Ltd* (1990) 172 CLR 32 (Trade Practices)
 - *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 (Judicial review)
 - *Concrete Constructions v Nelson* (1990) 169 CLR 594 (Trade Practices)
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Other Selected Cases

- As arbitrator on an LC1A Panel in London in a matter concerning a construction dispute in relation to a petrochemical plant in a Middle-Eastern country [2011]
- As Senior Counsel in an arbitration concerning the valuation as between joint venturers of a silver lead zinc mine in Northern Queensland [2011]
- As Senior Counsel for CHEP Australia in a dispute with Bunning Group Ltd concerning the retention of its pallets [2011] NSWCA 342 (Detinue, Conversion, Damages)
- As Senior Counsel for Aquila Ltd in disputes with its co-joint venturer Vale Ltd concerning logistics and development of coal mining assets in Queensland [2011] QCA 334 (Injunction)
- As Senior Counsel for *Hancock Prospecting Pty Ltd v Wright Prospecting Pty Ltd* in relation to the ownership of an interest in the Rhodes Ridge Iron Ore joint venturer (*Hancock Prospecting Pty Ltd v Wright Prospecting Pty Ltd* [2010] WASC 44)

- As Senior Counsel for a major Australian construction company in an arbitration in Mumbai concerning the development of an oil and gas field in the Bay of Bengal [2008]
- As Senior Counsel for Queensland Investment Corporation in a \$100 million claim under the Building and Construction Industry Security of Payments Act 1999. *Baulderstone Hornibrook Pty Ltd v Queensland Investment Corporation* [2007] NSWCA 9
- As junior and Senior Counsel in a number of arbitrations over the years between the Cooper Basin Producers and AGL concerning the price of gas.