

CURRICULUM VITAE

JOHN DIGBY QC

- Born:** Melbourne
19/7/1951
- Educated:** Scotch College Melbourne (1959 - 1969)
(Commonwealth Scholarship);
Melbourne University (LLB);
Melbourne University Boat Club 1970 – 1976
(Intervarsity 1972).
- Law:** Admitted to Practice 2 April 1979;
Victorian Bar – Signed Bar Roll – 2 April 1979;
Appointed Queens Counsel – 23 November 1993;
Chairman Victorian Bar Council 2008-2009;
Director Australian Academy of Law 2009
- Jurisdictions**
Admitted to Practice: High Court
Victoria
New South Wales
Queensland
Australian Capital Territory
Northern Territory
Western Australia
South Australia
Tasmania
Ireland (Barrister of Kings Inn Dublin)
- Clerk:** John Dever
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Victorian Bar and University Appointments/Activities

- Chairman, Victorian Bar Council, 2008-2009
- Senior Vice Chairman, Victorian Bar Council, 2008
- Member of the Executive of Victorian Bar Council, 2006 - current
- Member Victorian Bar Council 2005-2008
- Applications Review Committee 1997 -200; Chairman 2004-2008
- Director Australian Academy of Law 2009, and Member – current
- Statutory Appointee, Firearms Appeals Committee, 2009 - current
- Deputy Chairman, and Director, Barristers Chambers Limited (Appointed 2001) (Deputy Chairman since 2004-2008)
- President Commercial Bar Association 2009 – current;
- Vice President, Commercial Bar Association 2006- 2009
- Chairman Construction Law Division (Commercial Bar Association)1994-2009
- Lecturer, (Commercial Arbitration) Bar Readers Course 1985-2008
- Victorian Bar Accredited Mediator
- Court Appointed Mediator – Supreme Court of Victoria
- Victorian Council of Professions (Victorian Bar Appointee 1985-87)
- Alternative Dispute Resolution Committee 1997-2005
- Victorian Bar Law Reform Committee 1999
- Supreme Court of Victoria, Building List Users Committee 1996 – current
- Supreme Court of Victoria, Commercial Cases Users Committee 2009
- Senior Fellow of the Law School of Melbourne University [since 2005]
- Lecturer, Melbourne University, Masters Course; International Construction Law and International Arbitration, 2002-current
- Melbourne University Law School Masters in Construction Law Steering Committee 1998– current
- Member of Melbourne University, Construction Law Advisory Board 2009
- Melbourne University Moot Master, Deakin University Moot Master
- Readers: Master to 6 Readers (S. Wilson, J. Williams, J. Forrest, T. Shnookel, D.Mc Andrew & L. Schwartz).

Other Positions/Appointments

- Director and Member of the Australian Academy of Law
- Statutory Appointee Firearms Appeals Commission

Family

Married

Kirsten Martel Digby

Sons

William Maximillian John Digby(born 2/6/1981)

James Henry John Digby (born 4/9/1984)

Recreations

Sailing
Reading
Music
Gardening
Travel

Clubs

Melbourne Club
Australian Club
Melbourne University Boat Club (Life Member)
Royal Yacht Club of Victoria
Royal Melbourne Golf Club
QCYC

Awards

Royal Humane Society (Bravery Award)

Service

RAN (Reserve)
Brother of St. Lawrence
Founding co-sponsor "42 Downstairs" Flinders Lane (Melb)
Extensive Pro-Bono work

Professional Profile**Areas of Practice**

- Commercial
- Appellate work
- Commercial Arbitration
- Engineering and Construction
- International Arbitration
- Expert determinations
- Contract
- Trade Practices

Briefed in substantial commercial litigation and commercial arbitration proceedings for a period of over 25 years. Briefed as Senior Counsel in many large and complex Superior Court commercial proceedings, and commercial

arbitrations throughout Australia, including:

Commercial Litigation

- (a) Puffin Pty Ltd v AED Oil and AED Services, Supreme Court Litigation concerning tax arrangements and issues in relation to offshore hydro-carbon and petroleum project – Timor Sea. Issues included International Arbitration and application for a stay of proceedings;
- (b) Heperu Pty Ltd v. Perpetual Trustees Australia Limited High Court appeal, Banking, Finance, Corporation Act Chapter 5C, issues, head Counsel with Senior Counsel and Junior Counsel;
- (c) BHP Billiton Petroleum Pty Ltd v. Saipem (Portugal) and Saipem S.p.A. and McConnell Dowell
Supreme Court litigation concerning Trade Practices Act claims and technical construction issues concerning the "Minerva Gas Field" development with in excess of \$160M in issue. Briefed as Lead Counsel;
- (d) Transurban City Link Litigations (Baulderstone Hornibrook v TOJV)
Senior Counsel for Baulderstone Hornibrook in several Supreme Court proceedings concerning the Melbourne City Link Project; Briefed as Lead Counsel;
- (e) Deloitte Consulting Pty Ltd v National Australia Bank Ltd
Supreme Court proceeding involving claim exceeding \$600M, and relating to the design and implementation of a global banking computer services system. Briefed as Lead Counsel;
- (f) Premier Building and Consulting Pty Ltd v. Spotless Group Ltd & Ors
Supreme Court proceeding involving eight Defendant corporations and relating to negligence claims concerning pollution by dry cleaning industry operations, briefed as Lead Senior Counsel with a team including three Junior Counsel;
- (g) Riverland Water Pty Ltd. v. Baulderstone Hornibrook Engineering Pty Ltd
Supreme Court proceedings in South Australia involving issues concerning one of South Australia's largest infrastructure projects comprising ten water treatment plants. Complex issues of contract construction, technical engineering evidence and damages questions;
- (h) Leighton Contractors Pty Ltd v. The State of Tasmania
Supreme Court of Tasmania. Involved a major case concerned principally with complex contract construction and planning and environment issues resulting in a leading Superior Court decision on liquidated damages;

**Professional Negligence
Insurance Litigation**

- (i) Insurance Professional Negligence Litigation – Murrin Murrin Nickel Project (Fluor Daniel v AMP General Insurance Limited & Ors)
Senior Counsel for AMP;
- (j) Insurance/Professional Negligence Litigation (Robe River Mining v Civil Mechanical Maintenance)
Senior Counsel for CMM. Train derailment and economic loss claim;

Trade Practices Claims

- (k) Santos v. Helix, substantial Trade Practices litigation in relation to contract formation/tender and contract repudiation and determination issues concerning offshore hydrocarbon/petroleum infrastructure project. Also involving anti-suit injunction ;
- (l) Five D. v. Australia Post, substantial Trade Practices case involving the Australia wide property services for Australia Post;
- (m) Billiton – Bogosu Gold Mine (Guana) v Minproc & Ors, Supreme Court. Senior Counsel for Billiton. Trade Practices claim involving feasibility studies in relation to a gold mine in Guana;
- (n) Protec Pacific Pty Ltd & Steuler Industries v Western Mining Corporation. Complex Trade Practices and Product Liability litigation, interim involvement;
- (o) SteriCorp v. Stericycle
Complex Trade Practices and contract performance/technical issues, including very substantial economic loss claims.

Negligence

- (p) Bryan v Maloney 1995, High Court
Second Senior Counsel for the Appellant. Landmark High Court negligence case;
- (q) Arts Centre Spire Case (Arts Centre Trust v Hawker De Havilland & Ors)
Senior Counsel for design engineers, Hawker De Havilland;
- (r) Banking
Heperu (and Ors) v. Perpetual Trustees Australia Limited High Court proceedings concerning multiple banking law issues, including conversion, receipt of faith;
- (s) Many other large commercial negligence cases.

Arbitration

- (t) **Eastlink Arbitration (Thiess John Holland v. Connect East)**
Senior Counsel in complex arbitration, inter alia, dealing with multi-faceted suit of contracts including financial contract documentation concerning Victoria's largest infrastructure project (Eastlink) (as at 2008);
- (u) **BassGas Arbitration (Clough Engineering Limited v. Origin Energy Ltd)**
Arbitrator, Professor John Uff QC (UK). As lead Senior Counsel in a team of six barristers including one other Queens Counsel for Clough Engineering Ltd. The Arbitration involved complex engineering and process issues, in relation to hydrocarbon extraction project, involving an offshore platform (fabricated in Batam, Asia) in Bass Strait and onshore hydrocarbon processing plant at Lang Lang in Victoria. Issues included complex time extension, technical process and damages issues;
- (v) **Cogeneration Arbitrations (Fletcher Construction v Varnsdorf & Ors)**
Senior Counsel in a team of four barristers for Fletcher Constructions. Complex multi-party dispute involving questions relating to the performance of seven Allison 501-KM turbine engines (derivative aeronautical jet engines) and complex cogeneration economic loss claims;
- (w) **The State Bank Arbitration (Costain v State Bank of Victoria.)**
Major construction case involving complex time extension issues;
- (x) **St. Andrews Hospital Arbitration (Hooker v St. Andrews Hospital)**
Major construction case involving time extension and variation issues;
- (y) Many other large Arbitrations.

International Arbitration

- (z) **Puffin v. AED Services** – International Arbitration concerning seabed petroleum extraction in the Timor Sea (panel three Arbitrators from USA, UK and Aust), Timor Sea;
- (aa) **Saipem v. Coogee** – International Arbitration concerning off-shore infrastructure (seabed petroleum/hydrocarbon extraction), seat of Arbitration in Singapore (panel of three ICC Arbitrators);
- (bb) **SSL v. Ericsson**
Telecommunications Arbitration before a panel of three ICC Arbitrators (current 2008);
- (cc) **Altain Khuder LLC and IMC Mining Inc (and Anor)** – Court recognition and enforcement proceeding - International Arbitration Project in Mongolia concerning International Arbitration – Award (Mongolian Law) – Public

policy issues – related supreme Court Application;

- (dd) Toyo v John Holland
Interim involvement as Senior Counsel for Toyo;
- (ee) Victorian Ports Authority v Van Oord
Senior Counsel for Victorian Ports Authority;
- (ff) Stericorp v Stericycle
Arbitration conducted by retired High Court Justice concerning principally Trade Practice Act 1974.
- (gg) Lecturer (part-time) Melbourne University; Master Course, International Law, with heavy focus on International Arbitration Law and Practice.

Academic

- (hh) Lecturer (Part-Time) in International Construction Contracts and International Arbitration, Melbourne University (Masters Degree) since 2002. This Course has a heavy focus on International Arbitration Law and Practice;
- (ii) Member of the Standing Committee for the Masters Law Course Melbourne University since 1998;
- (jj) Member of Melbourne University Construction Law Advisory Board, 2009;
- (kk) Occasional lecturer, Leo Cussen Institute and elsewhere.

Arbitrations/Technical/Scientific Enquiries

Many substantial Arbitrations including:

- (ll) Cogeneration Arbitrations (Fletcher Construction v Varnsdorf and two other parties)
Senior Counsel of four barristers for Fletcher Constructions. Complex multi-party dispute involving questions of the performance of 7 Allison 501-KM turbine engines, (derivative aeronautical jet engines). (Quantum in dispute \$200 million);
- (mm) BassGas Arbitration (Clough Engineering Limited v. Origin Energy Ltd)
Arbitrator, Professor John Uff QC (UK). Lead Senior Counsel in a team of six barristers including one other Queens Counsel for Clough Engineering Ltd. The Arbitration involved complex engineering and process issues, in relation to hydrocarbon extraction project, involving an offshore platform (fabricated in Batam, Asia) in Bass Strait and onshore hydrocarbon processing plant at Lang Lang in Victoria. Issues included complex time

extension, technical process and damages issues;

- (nn) SSL v. Ericsson Telecommunications Arbitration before a panel of three ICC Arbitrators (current 2008);
- (oo) Puffin v. AED Services – International Arbitration, conducted under the (IAMA) Rules), concerning seabed petroleum extraction in the Timor Sea (panel three Arbitrators from USA, UK and Aust), (IAMA Rules);
- (pp) Court proceedings in relation to arbitral proceeding both international and domestic.

Arbitrator

- (qq) BASF Coatings Australia Pty Ltd and Akzo Nobel Pty Limited – Arbitration pursuant to the UNICTRAL Arbitration Rules 1976 – Arbitrator wit Co-Arbitrator (technical) in arbitration concerning contractual and technical issues.

Mediator

- (rr) Many substantial commercial mediations;
- (ss) Nominated Mediator in the Transurban Contracts;
- (tt) Supreme Court and County Court Appointed Mediator.

Expert Determinations

- (uu) Experience acting as Expert, conducting and determining Expert Determination proceedings;
- (vv) Senior Counsel representing parties in Expert Determination/proceedings.

Contract Drafting and Settlement

- (ww) Involved in drafting and settling various substantial commercial and construction contracts, including substantial involvement in settling standard contracts for SECV and Roads Corporation.