

Donna Ross, LL.M., FCI Arb, PRI

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Mediator, arbitrator, advocate and adviser. I am an attorney-at-law (admitted to the New York State bar) with both a common and civil law background (*Maître en droit*) and am soon to be admitted in Australia. I have significant experience in domestic and international dispute resolution and have represented parties from common and civil law jurisdictions and many different cultures.

My practice has focused on commercial disputes relating to partnership, shareholder, and import/distribution matters, breach of contract and fiduciary duty, wrongful termination, employment disputes, and derivative actions and my areas of expertise include information technology, franchise, private equity deals, the wine industry, the CISG and drafting arbitration agreements. I also have a broad-based professional background in business and technology and superior oral and written communication skills.

Mediation is a key area of my work. In addition to acting as a neutral and advocate, I provide training on mediation advocacy and teach principled negotiation based in large part on the Harvard School Program on Negotiation.

ADMISSIONS AND ACCREDITATIONS

Admitted as a lawyer in Australia and New York

Accredited Specialist in Mediation by the Law Institute of Victoria

NMAS Accredited Mediator

OFMA Franchising Mediator List

Melbourne Magistrates' Court Single List of External Mediators

Fellow of the Chartered Institute of Arbitrators (CI Arb)

Professional Member of Resolution Institute

Lecturer at La Trobe Law School

Approved Faculty for CI Arb: Introduction to Mediation, Mediation Assessment, Introduction to International Arbitration and Award-writing

Accredited Mediator for the New York State Court Commercial Division

Accredited Arbitrator and Mediator for the New York County Fee Dispute Program

Arbitrator for the Better Business Bureau of New York (2004 – 2010)

PROFESSIONAL EXPERIENCE

DONNA ROSS DISPUTE RESOLUTION, Melbourne, VIC

Principal, 2015 - Present

Dispute resolution practitioner: mediator, arbitrator and advocate in ADR proceedings. Business and legal adviser to individuals, companies and counsel on U.S. law and ADR options and strategy, with particular emphasis on dispute resolution clauses and international contracts.

LA TROBE LAW SCHOOL, LA TROBE UNIVERSITY, Melbourne, VIC

Lecturer, 2016

Lecturer for negotiation course at the La Trobe City Campus, based primarily on the Program on Negotiation, Harvard Law School (PON).

THE ROSS LAW FIRM (formerly Nydick & Ross, P.C.), N.Y.

Principal, 2003 – Present; Associate, 2001 - 2003

U.S. and international commercial lawyer and outside general counsel to small businesses.
Arbitrator for attorney-client fee disputes.
Arbitrator for the Better Business Bureau.
Mediator for court-annexed and private mediations.
Advocate in arbitrations, mediations and settlement negotiations.

- Litigation in state and federal courts in New York and New Jersey and before administrative courts (New York State Tax and Unemployment Appeals Tribunals).
- International ADR and litigation with parties from Australia, Belgium, Chile, France, Germany, Italy, New Zealand, Spain and the U.S. requiring letters rogatory and commissions, service to parties in non-Hague and Hague Convention countries, depositions in the U.S. and abroad and enforcement of foreign judgments in the U.S.

B-LEGAL, Paris, Munich

Consultant, 2001 to present; Associate 1996 - 2001

Consultant providing legal advice and opinions on U.S. law and dispute resolution. Former associate to managing partner in French and international matters before arbitral tribunals, the lower French courts, the *Cour de Cassation* and the European Court of Human Rights, and liaison with American clients regarding French and U.S. law.

LEGAL PRACTICE AND EXPERIENCE

In over twenty years of practice, I have served as a neutral and represented parties in arbitration, litigation, mediation and settlement negotiations as well drafting and negotiating arbitration and ADR clauses, as well as import and distribution, marketing, partnership, shareholder, employment, consultancy and management, license, lease, computer services, guarantee and confidentiality agreements.

Representative areas of expertise

Information Technology: Data bases, open source software, websites, networks, WiFi, CMS, computer languages, the cloud, virtualization, replication technologies, disaster recovery and redundancy, and enterprise back-end software, the U.S. Federal Computer Fraud and Abuse Act, defamatory postings, ownership of websites and email accounts.

The wine and alcohol industry: Litigation and mediation for breach of import agreements, including intensive document review, service of process, multiple depositions in the U.S. and abroad, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations, Patriot Act requirements, three-tier system, franchise in various states, internet sales, distribution and import agreements, LoCs, Incoterms, shipping and trade credit agency issues.

Partnership disputes: Derivative actions, breach of fiduciary duty and self-dealing, tortious interference, breach of duty of care, alter-ego and successor liability, foreclosure negotiations and violation of non-compete clauses, indemnity and guarantees, non-payment and sales tax issues.

Employment Law: Wrongful termination, independent contractor misclassification, unpaid wage claims, employee-rights violations, vesting of bonuses in international IPO, E.U. commercial agency and U.S. and French employment law.

Professional negligence and Lawyer/Client Disputes: New York County Attorney-Client Fee Dispute Program arbitrator, unauthorized practice of law, accountant negligence, professional licensing, enforcement of foreign judgment to recover attorney's fees.

Property matters: Closings (settlements) for cooperative and condominium properties, mortgage refinancing, *lis pendens* (caveats), ownership of cascading entities, design-build projects inter-family and investor loans and foreclosure proceedings.

Franchise law: Franchise disputes and unintentional franchising, in cases in N.Y., N.J and N.Z.

Health care law: Corporate practice of medicine fee-splitting/profit sharing prohibitions under state and Federal anti-kick-back statutes, leases, licensing, JVs and employment agreements and disputes.

Private equity investment: Shareholder, management, employment agreements, warrants, bank guarantees, contribution, indemnization, D&O liability, Title IV (education) claims and employee conversion of documents and assets.

Past business and law-related work

Managing partner of a language consultancy firm, DIALOG INTERNATIONAL, in Paris where I assisted and advised attorneys at ICC arbitrations and in international and worked with ministers, executives, legislators and officials from multinational corporations (*i.e.*, St Gobain, Total, Sodexo), the EU, international organizations and government agencies, such as DGCCRF, the US DOJ, FTC, and UK OFT on competition law, Financial Action Task Force on money laundering as well as numerous technical conferences in a multitude of industries.

ACADEMIC QUALIFICATIONS

- Diploma in International Arbitration, Chartered Institute of Arbitrators (CIArb).
- L.L.M. in Corporate Law and Dispute Resolution, Benjamin N. Cardozo School of Law, New York
- *Maîtrise* (LL.B.) in Business Law, with Honors, Panthéon-Sorbonne, Paris
- *Licence* (B.A.) in Applied Foreign Languages and Interpretation, Université de la Sorbonne Nouvelle, Paris
- B.A. in French and Political Science, Stony Brook University, New York

PROFESSIONAL EDUCATION AND DEVELOPMENT

- Specialist Accreditation in Mediation Successfully Completed, to be Conferred upon Admission
- CIArb Tribunal Secretaries' Course, 2016
- CIArb Award Writing course, 2015
- CIArb Accelerated Route to Fellowship, 2014
- The Negotiation & Leadership Conference at Harvard University, 2012
- NYSBA Commercial Mediation and Advanced Commercial Mediation Training, 2010
- Part 137 Fee Dispute Program Training in Arbitration and Mediation, 2009
- ICC International ADR Training, 2008
- Fordham Annual Conference on International Arbitration and Mediation, annual, speaker in London 2012
- ADR in the Entertainment Industry, 2002
- Harvard Program based negotiation course at Cardozo School of Law, 2002
- Negotiation courses at the Université de Paris I – Panthéon Sorbonne
 - I regularly attend international commercial arbitration events in Australia and Asia, such as Sydney Arbitration Week, CIArb, ICC, ACICA, AFIA, APRAG and Resolution Institute conferences and CLE/CPD sessions.
 - In the past, I have been a regular participant at the Fordham Annual Conference on International Arbitration, ICC, YAF and ICDR Seminars, the ICC/ICDR/ICSID Annual Joint Colloquium on International Arbitration, USCIB Arbitration Committee meetings, International Law Section Meetings of NYSBA and ABA, ILA's International Law Weekend and PLI's International Business Litigation and Arbitration seminars.

PUBLICATIONS AND SEMINARS

- Provider of CPD Training on Mediation Advocacy to Law Firms
- Regional Arbitral Institutes Forum (RAIF) Conference, 2016: Organizing Committee, Conference Chair.

- Speaker at Resolution Institute Arbitration Committee PD session 2016: The Arbitration Agreement and the Jurisdiction of the Arbitrator
- Speaker at Resolution Institute Mediation Committee PD session 2016 Managing Parties and Party Representatives in Mediation: Tools for Lawyer and Non-Lawyer Mediators
- Speaker at HKIAC 2016: Cooperating with the Facilitator While Protecting Client Rights
- Speaker at CIArb Australia/ ACICA symposium 2015: “The International Arbitration Landscape in the United States: Implications for Australian Practitioners”.
- Speaker at ‘Kongres 2015 (Leadr/lama) in Sydney and Melbourne: Med-Arb or Arb-Med: Ethical and practical considerations for single neutrals.
- Speaker at the Fordham Annual Conference on International Arbitration and Mediation in London Med-Arb/Arb-Med: A More Efficient ADR Process or an Invitation to a Potential Ethical Disaster? Paper published in Contemporary Issues in International Arbitration and Mediation, The Fordham Papers 2012 Edited by Arthur W. Rovine.

PROFESSIONAL AFFILIATIONS

- Resolution Institute: Chair of the Victorian Arbitration Committee, Member of the Victorian Mediation and National Determinative Committees
- Chartered Institute of Arbitrators, Fellow
- Member of the ICC Australia Mediation Committee and the ICCA Mediation Moot working group
- New York State Bar Association
 - Member of the Dispute Resolution (member of the Executive Committee during the start-up year) and International Law and Practice Sections, Committee on International Arbitration & ADR
 - Task Force on New York Law in International Matters, ADR Subcommittee
 - Working Group on cooperation between NYSBA’s International Section and the International Law Section of the Law Council of Australia
- AFIA Asia-Pacific Forum for International Arbitration
- ACICA (Australian Centre for International Commercial Arbitration), Associate Member
- Arbitral Women
- AIIA (Australian Institute for International Affairs), Victoria
- American Chamber of Commerce
- French-Australian Chamber of Commerce
- French-Australian Lawyers Society
- Italian Chamber of Commerce and Industry
- Victorian Women Lawyers

Judge in ADR Competitions:

- 2017 ICC Asia-Pacific Commercial Mediation Competition: Member of the Organising Committee, Judge and Mediator.
- 2016 Monash LSS JD Negotiation Competition
- Vis East Young International Mediator Competition 2015, 2016
- International Law Section, Law Institute of Victoria - International Commercial Arbitration Moot
- CIArb Centenary International Arbitration Moot
- Vis International Commercial Arbitration Moot, multiple years, coach and arbitrator; judge in Fordham and ICC Moots

LANGUAGES

Bilingual in French; Native Fluency in Spanish; Fluent in Italian; Basic ability in German; Ability to read Portuguese; Notions of Hebrew and Arabic.