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## DAMIEN MCDONALD

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### Admissions

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| 2020 | Barrister, Hong Kong   |
| 2019 | Solicitor Advocate (Higher Courts Civil Proceedings) (England and Wales) |
| 2016 | Solicitor, Hong Kong   |
| 2008 | Solicitor, England and Wales   |
| 2001 | Barrister and Solicitor, High Court of Australia                         |
| 2001 | Barrister and Solicitor, Victoria, Australia                             |

### Academic

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

Damien is a barrister focusing on international arbitration and commercial litigation in Hong Kong, mainland China, the region and internationally.

Prior to 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 and Cridlands Lawyers in Darwin (2000 to 2005)

Damien is a Fellow of the Chartered Institute of Arbitrators and on the HKIAC List of Arbitrators. He is also a CEDR qualified mediator.

### Examples of work as counsel in arbitration proceedings and litigation instructions as a solicitor

#### 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

- 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

- 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)
- Panelist and workshop leader for Fangda Partners workshops with BenchMark and Sinosure 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)