

## Dominic Kennelly

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Year Of Call: **2016**



Dominic is a former solicitor with substantial experience of commercial disputes, particularly in the areas of international arbitration, arbitration-related court applications and commercial litigation, including in the oil & gas / energy and banking & finance sectors.

Dominic joined 3VB in 2016. Prior to transferring to the bar, Dominic qualified as a solicitor at Herbert Smith Freehills LLP and practised as an associate / senior associate in the firm's international arbitration group in London.

*"Frighteningly smart and cuts to the chase. No waffle. He is one to watch"* (Legal 500).

*"Dominic Kennelly is 'a diligent and highly respected lawyer' who is 'able to marry his advocacy skills with his deep knowledge of arbitration'"* (Who's Who Legal: Arbitration Future Leaders, 2018).

### Recent Cases

#### Commercial Dispute Resolution

- *Manning & Napier v Tesco plc*: Acted for the Claimants (led by Peter de Verneuil Smith QC and Philip Hinks) in a claim against Tesco arising from the overstatement of Tesco's profits between 2010 and 2014. See [2019] EWHC 109 (Ch) (disclosure in civil proceedings of documents generated in a criminal investigation) and [2019] EWHC 109 (Ch) (title to sue under s.90A of FSMA in the context of intermediated securities).
- *Film finance litigation* - presently instructed in two major professional negligence claims in respect of film finance schemes (led by Andrew Onslow QC).
- Acting for the liquidators of companies used as the vehicles for a fraudulent investment scheme on a claim for professional negligence against their auditors (led by Adam Kramer).
- *BMW v Garson*: Acting for BMW in its claim against parties related to a former employee who defrauded BMW of £6 million by manipulating its electronic payment systems (led by Philip Hinks).

#### Arbitration and Arbitration-Related Court Applications

- Acting as sole counsel for a Luxembourg based bank in an LCIA arbitration against a Russian media group, and in a related application to the English Commercial Court for a stay under s.9 of the Arbitration Act 1996.
- Acting as sole counsel for a manufacturer of specialist defence vehicles in an LCIA arbitration

arising from its customer's attempt to cancel orders for equipment (value: approximately US\$25 million).

- Acting for the claimant in a high value LCIA arbitration concerning frauds allegedly committed by the respondent investment manager in connection with property development projects in India (led by Ali Malek QC and others).
- *Stati v Kazakhstan* [2019] 1 WLR 897 and [2018] 1 WLR 3225: defending the Republic of Kazakhstan against a claim in the English Commercial Court for enforcement of an award for approximately US\$500 million, on the basis that the award was obtained by fraud (led by Joe Smouha QC, Ali Malek QC and others).
- Acting for a major US corporate on a claim for an anti-suit injunction to restrain the unsuccessful party to a London-seated arbitration from challenging the award in the Indian courts (led by Christopher Harris QC, but appeared as sole counsel on an *ex parte* application to obtain an additional interim injunction).
- Acting for the Claimant (led by Paula Hodges QC of Herbert Smith Freehills LLP) in *Maximov v OJSC "Novolipetsky Mettallurgichesky Kombinat"* [2017] EWHC 1911 (Comm), a claim to enforce a Russian arbitration award that was set aside by the Russian courts, on the basis that the Russian set aside decisions were tainted by bias and ought not to be recognised in England.
- Acting for the Defendants in *Doglemor Trade Ltd v Caledor Consulting Ltd* [2020] EWHC 3342 (Comm), a s.68 challenge (led by Christopher Harris QC)

## Expertise

## Previous Experience

Dominic's cases at Herbert Smith Freehills include acting for:

- The Claimant in *Standard Chartered Bank (Hong Kong) Limited v. United Republic of Tanzania* (ICSID Case No. ARB/15/41) and *Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited* (ICSID Case No. ARB/10/20), being disputes arising from the project financing of a power station in Dar es Salaam, Tanzania. The latter case involved the first successful application in ICSID history for reconsideration of a tribunal's decision.
- A Russian bank (in its capacity as Security Trustee) in an LCIA arbitration involving professional negligence claims against a corporate services provider arising out of a securitisation transaction.
- The Defendant in *Stockman Interhold S.A. v Arricano Real Estate plc* [2015] EWHC 2979 (Comm), a challenge under ss.67 & 68 of the Arbitration Act 1996 to an award made in an LCIA arbitration relating to a shopping centre in Kiev, Ukraine. Dominic also acted on a previous s.68 challenge and in the underlying arbitration.
- A private equity firm in ICC arbitration proceedings brought against it by a European state arising from the privatisation of a state utility.
- A major oil company in an unjust enrichment claim arising from the mistaken delivery of hydrocarbons.
- A major oil company in an arbitration concerning the re-determination of equity shares in an offshore oil field in Africa.
- A consortium of oil companies in arbitration and related expert determination proceedings against a Central Asian state. The amount in dispute was in excess of US\$9 billion.

- A major oil company on a potential claim against its (state owned) joint venture partner in connection with cost overruns on an oil field development in the Middle East. The value of the claim was in excess of US\$380 million.

## **Publications**

"A breakthrough for financial services arbitration?", Global Arbitration Review, 29 September 2014 (co-authored with colleagues).

"Keeping to the Deal: The Need for Contractual Certainty in Uncertain Markets" (2014) 29(5) Journal of International Banking Law and Regulation 291 (co-authored with colleagues).

"The future of financial services arbitration", Global Arbitration Review, 23 August 2013 (co-authored with colleagues).

"Problems with the One-Way System: The Risks and Opportunities of Unilateral Options to Arbitrate Financial Disputes" (2013) 24 Journal of Banking and Finance Law and Practice 294 (co-authored with colleagues).

## **Admissions**

Called to the Bar - England and Wales - 2016

Solicitor Advocate (Higher Courts Civil Proceedings) - 2012

Solicitor - England and Wales - 2010

Solicitor - New South Wales, Australia - 2008

## **Education**

Bachelor of Laws (First Class Honours), University of Sydney

Bachelor of Commerce, University of Sydney