

Donna Ross, LL.M., FCIArb, PRI

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Donna Ross is an international ADR practitioner, advocate and adviser. She is an attorney-at-law (admitted to the New York State bar) with a common and civil law background and significant experience in mediation, arbitration and domestic and international commercial litigation in disputes related to partnership, shareholders', import, distribution and agency agreements, derivative actions, employment, malpractice, breach of contract, fiduciary duty and wrongful termination, franchise, corporate practice of medicine, the wine industry and the CISG (Convention on the International Sale of Goods).

She has a unique combination of mediation, litigation and transactional experience along with a broad-based professional background in business and technology and is an accomplished multicultural negotiator with superior oral and written communication skills.

ADMISSIONS AND ACCREDITATIONS

Admitted to the New York State Bar

Practicing Certificate in Victoria as a Foreign Lawyer (Admission as Australian lawyer in progress)

NMAS Accredited Mediator

Accredited Mediator for the New York State Court Commercial Division

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

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

Fellow of the Chartered Institute of Arbitrators, Approve Faculty Member

Professional Member of Resolution Institute

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 alternative dispute resolution options and strategy, with particular emphasis on dispute resolution clauses in international contracts.

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

Lecturer, July – August 2016

Lecturer for intensive negotiation course at the La Trobe City Campus, based on integrative bargaining and principled negotiation primarily from the Program on Negotiation, Harvard Law School (PON). Coursework included textbook assignments, videos, interactive exercises and role-plays.

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

Principal, 2003 – Present

U.S. and international commercial lawyer and outside general counsel to small businesses.

Mediator for court-annexed and private mediations as well as attorney-client fee disputes. Client advocate in numerous mediations and settlement negotiations.

- Litigation experience 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 (Former firm name: Bastian • Manciet & Associés)1996 - 2001

Consultant providing legal advice and opinions.

Associate to managing partner in French and international matters before the lower French courts, the *Cour de Cassation* and the European Court of Human Rights, and liaison with American clients regarding French law.

NICK STRETCH LEGAL, Melbourne, VIC

Consultant, 2013 - 2015

Law clerk type duties such as research, reviewing files and documents, proofreading, attending mediations and conferences and advising on U.S. law.

THE LAW & MEDIATION OFFICES OF TERESA OMBRES, New York, N.Y.

Associate 2002 - 2003

Assisted partner by attending client conferences, researching case law, drafting opinions, agreements and motions (applications).

DIALOG INTERNATIONAL, S.A.R.L., Paris, France

Managing partner of language consultancy firm in charge of client relations, PR, contract negotiations and drafting, organizing conferences and managing teams of interpreters, translators and technical staff.

INTERNATIONAL LANGUAGE CONSULTANT, Paris, France

Assisted and advised attorneys at ICC arbitrations and in international litigation. Interpreted for executives, legislators and officials from multinational corporations, international organizations and government agencies. Translated and adapted legal documents. Worked in Paris, Brussels, Luxembourg and throughout Europe

LEGAL PRACTICE AND EXPERIENCE

I have gained particular expertise in several areas of the law in over twenty years of practice, first as a litigator and commercial lawyer and increasingly as an ADR practitioner, including in franchise law (unintentional franchising), the wine and alcohol industry (three-tier system as relates to import and distribution, trade credit agency issues), health care law and corporate practice of medicine (fee-splitting/profit sharing prohibitions between professionals and unlicensed persons under New York State and Federal anti-kick-back statutes) and private equity investment in the education sector.

A good part of my practice has been devoted to mediating or representing parties as settlement or litigation counsel in partnership disputes involving individuals and corporate entities, multiple parties, and couples and family members in partnership disputes, or so-called *business divorce*. These include derivative actions for breach of fiduciary duty and self-dealing, tortious interference, breach of duty of care, alter-ego and successor liability, foreclosure negotiations and mediation with banks to prevent the forced sale of the properties or closure of commercial accounts during litigation, violation of non-compete clauses, non-payment and sales tax issues.

For several small businesses, I have acted as outside general counsel over the years. In this capacity I represent them in litigation and ADR processes, negotiate contracts and settlement agreements, draft all corporate agreements and legal documents, deal with supervisory bodies and agencies and provide general business and legal advice.

I have extensive commercial experience drafting, negotiating and reviewing import and distribution, marketing, partnership, shareholder, employment, consultancy and management, licence, lease, computer services, NDA and confidentiality agreements.

I also advise U.S., French and Australian clients and counsel on dispute prevention and management, including mediation strategy and position papers and other commercial options for defendants in protracted litigation, and negotiate settlement agreements based on DR clauses in contracts.

Other representative areas of practice

Information Technology: IT contracts with Australian, U.S. and UK parties, Representation of clients in a mediation over a complex website dispute, multiple claims for website design and IT services, violations of the Federal Computer Fraud and Abuse Act and using subpoenas and court orders to produce documents and remove defamatory postings (Yahoo, Google and GoDaddy).

Employment Law: Representation of both employees and employers in cases of wrongful termination, misclassification of employees as independent contractors, unpaid wage claims and employee-rights violations, the vesting and payment of bonuses subsequent to an international the takeover, U.S. and French employment law, and the impact of E.U. commercial agent regulations.

Professional negligence and Lawyer/Client Disputes: Mediator and Arbitrator for New York County, representation of clients in litigation and settlement negotiations in negligence matters involving unauthorized practice of law, recovery in the U.S. of attorney's fees related to an international property dispute.

Property matters: Representation of clients in multiple closings (settlements) for cooperative and condominium properties in New York State and buildings' mortgage refinances, filing of *lis pendens* (caveat) in property disputes, French and German litigation on failure to transfer title to properties, mediation in a family business divorce involving dozens of cascading entities, several design-build projects and properties with other owners, inter-family loans, foreclosure proceedings, and outside investor loans.

Past business and law-related work

In my past career as an international language consultant, I assisted and advised attorneys in multi-year ICC arbitrations and international litigation and worked with executives, legislators and officials from multinational corporations, EU Institutions (Commission, Council, Parliament), NATO, the French Ministries of Defense and Foreign Affairs and Finance (personal interpreter to the Director of the French Competition Law body with counterparts from the US DOJ and FTC, and UK OFT, Paris Club/IMF/World Bank debt rescheduling and Financial Action Task Force on money laundering) as well as in multifarious technical, medical and commercial negotiations, meetings and symposia.

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

- 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, 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 attend and speak at professional conferences above and beyond what is required for my admission and accreditations, with extensive professional development credits in Mediation, Arbitration, Law, Legal Terminology, Political Science and Sociology in Australia, the U.S., France, Spain and Mexico.

PUBLICATIONS AND SEMINARS

- Speaker on the Mediation Panel of 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.
- Speaker at Kongress 2015 (Leadr/lama) in Sydney and Melbourne: Med-Arb or Arb-Med: Ethical and practical considerations for single neutrals.
- Speaker at CIARB Australia/ ACICA symposium: "The International Arbitration Landscape in the United States: Implications for Australian Practitioners".
- Speaker at Resolution Institute Mediation Committee PD: The business of mediation - How to start and grow a practice.

PROFESSIONAL AFFILIATIONS

- Resolution Institute: Chair of the Victorian Arbitration Committee, Member of the Victorian Mediation and National Determinative Committees
- 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
- Former Chair of the Board of a non-profit for foster children, In the Spirit of the Children
- American Chamber of Commerce
- 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
- Chartered Institute of Arbitrators, Fellow
- French-Australian Chamber of Commerce
- French-Australian Lawyers Society
- Italian Chamber of Commerce and Industry
- Victorian women lawyers

Judge in ADR Competitions:

- Vis East Young International Mediator Competition
- Vis International Commercial Arbitration Moot
- International Law Section, Law Institute of Victoria - International Commercial Arbitration Moot
- CIArb Centenary International Arbitration Moot
- 2016 Monash LSS JD Negotiation Competition

LANGUAGES

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

I represent parties from common and civil law jurisdictions, particularly in cross-border or cross-cultural negotiations and disputes. I can conduct mediations or arbitrations in English, French and Spanish.