

**Name :** Damien Laracy

**Date of Birth :** 19 June 1967

**Nationality :** New Zealand

**Country of Residence:** Hong Kong

**Language(s) : Spoken** English

**Language(s) : Written** English

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**Telephone:** +852 2525 7528

**Profession :** Partner of Hill Dickinson Hong Kong



#### **Academic & Professional Qualification(s) :**

Educational: LLB, University of Auckland — 1985-1989; B. Com (Marketing), University of Auckland 1985- 1989; M. Com. L (Hons), University of Auckland — 1993, 1994; Southampton University Maritime Law Short Course — August/September 1999

#### **Professional Membership(s):**

Professional Memberships: New Zealand Law Society; Law Society of Hong Kong; Law Society of England and Wales; Maritime Law Association of Australia and New Zealand; Hong Kong Maritime Law Association; Hong Kong Shipowners Association; Fellow of the Hong Kong Institute of Arbitrators (and a Panel Member of the HKIAC Panel of Arbitrators); Fellow of the Chartered Institute of Arbitrators; Panel Member of the Singapore International Arbitration Centre; Member of the Kuala Lumpur Regional Centre for Arbitration Panel of Arbitrators; Inter Pacific Bar Association; International Bar Association.

#### **Career & Professional Experience:**

Damien was admitted as a barrister and solicitor in New Zealand in 1990. He has been a Hong Kong resident since 1995. He is admitted as a solicitor in New Zealand, Hong Kong and England and Wales. His practice comprises a mix of maritime and commercial litigation and arbitration.

In addition to his shipping and trade practice, Damien also has considerable experience with shareholder and joint venture disputes; employment related disputes; insolvency and asset recovery; white collar crime and fraud investigations including obtaining urgent relief via Anton Piller Orders or Mareva Injunctions / freezing orders.

He has litigated product liability claims and personal injury and fatality claims.

#### **Legal Knowledge relating to Shipping, Arbitration Practice and Procedure:**

Damien advises in relation to drafting and construction of multi-tiered dispute resolution clauses and arbitration clauses, and enforcement of Judgments and Arbitration Awards in the PRC and in Hong Kong.

In 2005 Damien won a significant arbitration in Hong Kong for a listed Singaporean commodities trader. He succeeded in obtaining recognition of the Hong Kong arbitration Award in China (non-CITEAC). This was one of the earliest instances of recognition of a foreign award in the PRC. Due to reluctance of the lower PRC Courts Damien was required (with the assistance of his PRC correspondent lawyers) to make formal written submissions to the People's Supreme Court in Beijing in order to secure recognition in the PRC of the Hong Kong Award. The relevant PRC State Owned Enterprise (i.e. Respondent) then settled.

Damien also sits as an arbitrator.

Damien's experience can be summarised as follows:

- Shipping and trade disputes:
  - Charterparty disputes.
  - Cargo loss / damage / misdelivery claims.
  - Vessel casualty, salvage, GA.
  - Sale of goods, L/C disputes.
  - Cargo misdescription issues, criminal prosecutions following importation or transshipment resulting in civil indemnity claims against shippers.
- Shipbuilding, conversion and repair disputes, ship sale disputes, ship management disputes:
  - Default in payment requiring litigation or arbitration to release escrow funds.
  - Disputes as to specifications, performance and equipment.
  - Enforcement of performance guarantees.
  - Mitigation of loss by hiring-in.
  - Termination of ship management agreements
- Admiralty work:
  - Arrest and sale of commercial vessels, ship mortgage enforcement, removal and/or sale of cargo and bunkers, repatriating crew.
  - Arrest and sale of a large yacht following refusal by purchaser to take delivery after commissioning.
- Commercial dispute resolution (litigation and arbitration), including shareholders' and joint venture disputes, distribution and licensing disputes, sale of goods disputes, financial services disputes, fraud and business and asset diversion incidents.
- Advising on insurance coverage and exclusion issues.
- Cross border debt recovery and insolvency work (including recovery against assets and guarantors), pursuit of distressed debt.
- Personal injury disputes, fatality claims. Highly publicised fatality claims variously involving Russian, Singapore, Australian and Hong Kong parties.
- Ship sale/purchase — non contentious:
  - Preparing opinions.
  - Escrow arrangements
  - Preparing for and attending closings

Damien is ranked :

- by Asia Law, as a Leading Lawyer for Dispute Resolution & Litigation  
<http://www.asialaw.com/lawyers/laracy-and-co/laracy-damien/5bcafb67>
- by Chambers & Partners for both "China, Shipping; Litigation (International Firms)" (Band 2) and "China, Dispute Resolution; Litigation" (Band 4) <http://www.chambersandpartners.com/asia/person/312484/damien-laracy>

## Publications:

Paper presented at the 19th Session of the International Congress of Maritime Arbitrator ("ICMA"), Hong Kong, 11 — 15 May 2015: "Circumstances in Which a Right of Arrest of a Vessel in Hong Kong Survives an Arbitration Award: Recent Hong Kong Court of Appeal Decision in the "Atas

Contributor of commentary and articles regarding arbitration and litigation:

- Co-author of "Arresting a Ship to Enforce a Maritime Arbitration Award", 'Expert Guides', December 2014.
- "Praise for Hong Kong Arbitration", 'Seatrade Global', May 2015.
- Contributing author to the Hong Kong law chapter of the book Shipping & International Trade Law — Jurisdictional comparisons published by Thomson Reuters (Second Edition 2015). The scope of the book was to provide brief summaries of key facets of the law on shipping and international trade in various jurisdictions. The First Edition covered 25 jurisdictions and the Second was expanded to 36.
- Chapter for 'Global Arbitration Review' on "Maritime and Offshore Arbitration in Hong Kong" The chapter answers questions on offshore oil and gas disputes, maritime disputes and security for claims in arbitration. See: <http://globalarbitrationreview.com/knowhow/topics/81/iurisdictions/40/hong-kong/>
- Contributing author of the book Maritime Law and Practice in Hong Kong (2015, First Edition); Chapter titled "The Enforcement of Maritime Claims".
- Contributor to 'InHouse Community' article on "Grabbing With Both Hands" (re financial services disputes), January 2016.
- Co-author of "Hong Kong Passes Apology Bill", 'Hong Kong Lawyer', August 2017.