

## Samantha Nadilo

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### Professional overview

I am a commercial Barrister practising in Perth, Western Australia. I am experienced in leading investigations and commercial disputes, encompassing both commercial litigation and arbitration.

Naturally in Western Australia, I have sector expertise in Energy and Resources disputes. My commercial law practice predominantly features regulatory and enforcement matters, including corporations law, competition law and access regulation. I have specialty expertise in corporate crime and investigations, anti-bribery and corruption and regulatory/compliance.

I appear in all Courts in Western Australia. I also appear in tribunals, arbitrations, mediations and at regulatory examinations.

In March 2020, I was appointed by the Economic Regulation Authority to the panel of individuals that can act as arbitrators in the event of a disputes under the *Railways (Access) Code 2000*.

I am a member of the Competition and Consumer Committee of the Law Council of Australia, Business Law Section. I am also a member of the National Sports Tribunal Legal Assistance Panel and assist national sporting bodies and their participants to resolve disputes efficiently and affordably.

Prior to joining the Western Australian Bar, I was a Senior Associate in the Disputes team at Herbert Smith Freehills. I joined Freehills (as it then was) in 2007 and practised in both Perth and Sydney.

Selected experience in courts, arbitrations and regulatory matters are set out below.

### Experience

#### Corporations; Insolvency; Equity

- *Habrok (Dalgarama) Pty Ltd v Gascoyne Resources Ltd* [2020] FCA 1395; defence of application under ss 445D and 447A of the *Corporations Act* (Cth) to terminate a deed of company arrangement (led by B Dharmananda SC, with P Walker and S Tomasich).
- *Venus Metals Corporation Ltd v DJ Carmichael Pty Ltd & Anor* (settled prior to trial); claims in Equity in relation to the acquisition by Spectrum Metals Limited of the Penny West gold mine (led by S Penglis SC).
- ICAC Investigation re *Operation Spector*, October 2014, into the conduct a Railcorp Manager and a Housing NSW Employee.
- ICAC Investigation re *Operation Tilga*, September 2013, into allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants.
- ICAC Investigation re *Operation Jasper*, July 2013, into conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others.
- *Jones v Hirst* [2013] NSWSC 163; application for judicial advice and related class-action style proceedings involving claims for breach of directors' duties and under the *Trade Practices Act* (Cth).
- *Grimaldi v Chameleon Mining NL (No 2)* (2012) 200 FCR 296; *Chameleon Mining NL v Murchison Metals Limited* [2010] FCA 1129; claims for breach of directors' duties and in Equity in relation to interests held in the Oakajee port and rail project in Western Australia.

- Acting for companies and individuals in regulatory internal investigations and those conducted by the ASIC, including appearances at regulatory examinations and advising on subsequent banning orders.

### Commercial; Defamation

- 2020; advising a global resources supplier and distributor on a high-value contractual dispute involving a long-term offtake agreement, which included the commencement of proceedings in the High Court of South Africa (settled prior to hearing) (led by S K Dharmananda SC).
- 2020; defending an application to restrain solicitors from acting in family law proceedings in the Family Court of Western Australia (decision of Chief Judge Sutherland not published) (led by S Penglis SC).
- 2020; defending a defamation claim brought in the Supreme Court of Western Australia (settled prior to trial) (led by S Penglis SC).

### Arbitration; Private International Law

- (Arbitrations, 2014 to 2018) West Australian infrastructure owner in various negotiations and arbitral disputes arising under the *Railways (Access) Code (WA)*.
- *PT Bayan Resources TBK v BCBC Singapore Pty Ltd* (2015) 258 CLR 1; *PT Bayan Resources TBK v BCBC Singapore Pty Ltd* [2014] WASCA 178; *BCBC Singapore Pty Ltd v PT Bayan Resources TBK* [No 3] [2013] WASC 239; freezing order relief in aid of proceedings in the High Court of Singapore arising out of a collapsed joint venture in Indonesia.
- *ENRC Marketing AG v OJSC Magnitogorsk Metallurgical Kombinat* (2011) 285 ALR 444; freezing order relief in aid of arbitration proceedings in Switzerland arising out of a breach of a long-term supply contract for iron-ore materials.
- (Arbitration, 2007) West Australian utilities provider in respect of the construction of a transmission line in Western Australia.

### Competition Law; Regulatory/Pricing Disputes

- *Groote Eylandt Mining Company Pty Ltd v Secretary for Mineral Royalties (NT)* [2019] NTSC 58; claim regarding a royalty payable under the *Mineral Royalty Act (NT)*.
- *Goldfields Gas Transmission Pty Ltd v ERA & BHP Billiton* [2018] WASC 104; defence of judicial review proceedings commenced by Goldfields Gas Transmission under the *National Gas Law*.
- *Woodside Energy Ltd v Electricity Generation and Retail Corporation, t/as Synergy* [2015] WASC 397; contractual construction and pricing dispute under a long-term gas sale and purchase agreement.
- *ACCC v Metcash Trading Ltd* (2011) 198 FCR 297; defending proceedings commenced by the ACCC for an injunction restraining an acquisition under section 50 of the *Trade Practices Act (Cth)*.
- Acting for companies in merger authorisation processes conducted by the ACCC.
- Acting for companies and individuals in regulatory internal investigations and those conducted by the ACCC, including appearances at regulatory examinations.

## Pro-bono

- 2020; *Hordyk v Wanslea Family Services*; claim brought in the State Administrative Tribunal for contravention of the *Equal Opportunity Act 1984* (led by S Penglis SC, with C Russell).
- *AB & AH v The State of Western Australia* (2011) 244 CLR 390; application under the *Gender Reassignment Act 2000* (WA) (led by S Penglis SC, with A Golem).

## Admissions and Qualifications

### Admissions

- Supreme Court of Western Australia (2008).
- High Court of Australia (2009).

### Education – University of Western Australia

- Bachelor of Laws with Distinction (2006).
- Bachelor of Arts in Political Science with Honours (2004).

### Other

- Member of panel of individuals that can act as arbitrators in the event of a dispute under the *Railways (Access) Code 2000*.
- Member of the Competition and Consumer Committee of the Law Council of Australia, Business Law Section.
- Member of the National Sports Tribunal Legal Assistance Panel.
- Member of AMPLA; Member of Women Lawyers of Western Australia.
- Graduate of Leadership Western Australia; Rising Leaders Program 2014.