

## Samantha Nadilo

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### Professional overview

I am experienced in leading commercial disputes and investigations, encompassing both litigation and arbitration, and public inquiries.

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

I appear in all courts in Western Australia, and in tribunals, arbitrations, mediations, regulatory examinations, and public inquiries.

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

#### Appeals

- *Murray Riverside Pty Ltd v Toscana (WA) Ravenswood Estate Pty Ltd* [2022] WASCA 67; appeal from dismissal of application for leave to be released from the *Harman* obligation (led by B Dharmananda SC). I appeared unled with respect to costs.
- *Mineralogy Pty Ltd v Sino Iron Pty Ltd* [2022] WASCA 26; appeal from strike-out decision (led by SK Dharmananda SC, with C Wren). I appeared unled with respect to costs.

#### Trials and applications

- *Roseland Capital Pty Ltd v Neometals Limited* [2022] WASC 132; application to strike out (led by SK Dharmananda SC). I appeared unled on earlier applications for leave to serve the originating process out of the jurisdiction and for security for costs (decisions not published).
- *Milne Agrigroup Pty Ltd v Toovey* [2022] WASC 118 (suppressed); *Milne Agrigroup Pty Ltd v Toovey* [2022] WASC 119 (suppressed); *Milne Agrigroup Pty Ltd v Toovey* [2022] WASC 120 (suppressed); application to strike out; application to vary interlocutory injunctions; application to vary an agreed confidentiality regime (led by S Penglis SC).
- *Blue Ribbon Mines Pty Ltd v Roy Hill Infrastructure Pty Ltd & Ors* [2022] WAMW 3; application for referral of a case stated pursuant to s 146 of the *Mining Act 1974* (led by SK Dharmananda SC).
- FRJ 2 of 2019: *Registration Number 06517935, A Company Registered in the UK 116 Cardamon Limited v Macalister & Ors*; application to vary *ex-parte* freezing orders (unled).
- *Sino Iron Pty Ltd v Mineralogy Pty Ltd* [2021] WASC 442; application on legal professional privilege and waiver (led by SK Dharmananda SC).
- *Firefly Resources Limited* [2021] WASC 376; application for scheme of arrangement (with JRC Sippe).

- *Kelly v Hilton* [2021] WASC 369; application for summary judgment (led by S Penglis SC).
- *Habrok (Dalgaranga) Pty Ltd v Gascoyne Resources Ltd* [2020] FCA 1395; application under ss 445D and 447A of the *Corporations Act* to terminate a deed of company arrangement (led by B Dharmananda SC, with P Walker and S Tomasich).
- *Banfield and Banfield* [2020] FCWA 116; application to restrain solicitors from acting in proceedings (led by S Penglis SC).
- CIV 1952 of 2020: *Continental Coal Limited (In Liq) v Landau & Ors*; application to strike out (led by M Howard SC).
- WAD 448 of 2017; briefed for subpoena recipient on application to set aside a subpoena (led by JK Taylor SC).
- CIV 2779 of 2019: *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).
- CIV 2925 of 2020: defamation claim (settled prior to trial) (led by S Penglis SC).
- 2020: direct brief by 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).
- *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; 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*.
- *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.

## Arbitration; Private International Law

- *Venetian Nominees Pty Ltd v Weatherford Australia Pty Ltd* [2021] WASC 137; application brought under the *Commercial Arbitration Act 2012* to set aside an arbitral award (led by M Howard SC).
- 2014 to 2018: Acting for 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.

### Public inquiries, regulatory examinations

- 2021; Briefed by ASIC on investigation into a publicly listed company and its officers and employees, including appearing for ASIC at several private s 19 examinations.
- 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.

### Pro-bono

- EOA 12/2019: *Hordyk v Wanslea Family Services*; claim 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* (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 Women Lawyers of Western Australia.
- Graduate of Leadership Western Australia; Rising Leaders Program 2014.