

# FRANCIS MAXWELL DOUGLAS QC

## Sydney Chambers

Telephone Number: +612 8224 3025  
Facsimile Number: +612 9233 1850  
E-Mail Address: [douglasqc@sevenwentworth.com.au](mailto:douglasqc@sevenwentworth.com.au)  
Address: Seven Wentworth Chambers  
34/126 Phillip Street  
SYDNEY NSW 2000

## Perth Chambers

Telephone Number: +618 9220 0414  
Facsimile Number: +618 9325 9111  
E-Mail Address: [fdouglas@francisburt.com.au](mailto:fdouglas@francisburt.com.au)  
Address: Francis Burt Chambers  
Level 19  
Allendale Square  
77 St Georges Terrace  
PERTH WA 6000  
  
PO Box C122  
PERTH WA 6839

## Areas of Practice

Appellate  
Building and Construction  
Constitutional and Administrative Law  
Commercial  
Arbitration  
Corporate  
Equity/Trusts  
Insurance  
Intellectual Property  
Trade Practices  
Alternative Dispute Resolution

## Education

1964-1969	University of Queensland
1967	Bachelor of Arts (majoring in political science and history)
1969	Bachelor of Law
1970-1972	University of Cambridge (UK)
1972	Post Graduate Bachelor of Laws
1973	Diploma in International Law

## Professional Qualifications

1967-1969	Associate to the Hon Justice James Archibald Douglas of the Queensland Supreme Court
Dec 1969	Admitted to the Queensland Bar
1972-1975	Joined the Constitutional and International Law Branch of the Commonwealth Attorney General's Department as a Legal Officer and was then subsequently appointed to the positions of Senior Legal Officer and Principal Legal Officer
1973-1975	Representative of the Australian Government in the proceedings <i>Australia v France</i> in the International Court (the <i>Nuclear Tests</i> case)
Feb 1975	Admitted to the Bar of New South Wales
August 1988	Appointed Queens Counsel in and for the State of New South Wales. Subsequently admitted as Queens Counsel in all the other States and Territories of Australia
2011	Fellow of the Chartered Institute of Arbitrators (UK)

## Professional Activities

1991-2003	Member Incorporated Council of Law Reporting
1977-2001	Chairman Incorporated Council of Law Reporting
2000-2001	Member, Professional Conduct Committee No 2

## Career at the Bar

Mr Douglas has spent more than 30 years in practice at the New South Wales Bar since 1975, and more than 20 years as a silk. Important early cases in his career included:

*Commonwealth of Australia v State of Tasmania* (the *Tasmanian Dams* case) (1983) 158 CLR 1, as junior to R J Ellicott QC and AM Gleeson QC for Tasmania

*Counsel Assisting the Royal Commission into Drug Trafficking through the Bahamas* (1983-4) as junior to R J Ellicott QC.

*Moorgate Tobacco Co Ltd v Philip Morris Ltd* (1984) 156 CLR 414 as junior to R.S. Alexander QC of the London Bar.

Since taking silk in 1988 Mr Douglas has appeared in the High Court and other intermediate Appellate Courts on numerous occasions. He was for a very short period a Justice of the Court of Appeal in Fiji and the Supreme Court of that country, (see *Qarase v Bainimarama* [2009] FJCA 9; 9 April 2009).

Significant cases in the High Court as silk include:

- *E & J Gallo Winery v Lion Nathan Australia Pty Ltd* [2010] HCA 15 (Trade marks)
- *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* [2007] HCA 22 (Equity; fiduciary duties)
- *Bayside City Council v Telstra Corporation Ltd* (2004) 216 CLR 595 (Constitutional Law)
- *Tanwar Enterprises Pty Ltd v Gauchi* (2003) 217 CLR 315 (Equity; penalties and forfeiture)
- *Rural Press Ltd v ACCC* (2003) 216 CLR 53 (Trade Practices)
- *Moltoni Corporation Pty Ltd v QBE Insurance Ltd* (2001) 205 CLR 149 (Insurance)
- *In re Associated Alloys* (2000) 202 CLR 588 (Corporations; Romalpa clauses)
- *Re Wakim ex parte McNally* (1999) 198 CLR 511 (Constitutional Law; Judicial Power)
- *Clenae Pty Ltd v ANZ Banking Group Ltd* [1999] 2 VR 573 (Judicial bias)
- *Gould v Brown* (1998) 193 CLR 346 (Constitutional Law; Judicial Power)
- *Immer (No 145) Pty Ltd v Uniting Church in Australia Property Trust (NSW)* (1992) 182 CLR 26 (Contract; election)
- *Devenish v Jewel Food Stores Pty Ltd* (1990) 172 CLR 32 (Trade Practices)

- *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 (Judicial; review)
- *Concrete Constructions v Nelson* (1990) 169 CLR 594 (Trade Practices)

Throughout his career Mr Douglas has been involved in many of the more significant commercial trials at first instance in New South Wales and elsewhere in Australia. He has also appeared regularly in private commercial arbitrations particularly in oil and gas and energy related matters including price setting in relation to the supply of gas and electricity. Most recently he has focussed significantly on the arbitration aspect of his practice in a wide range of matters.

Recent matters in which Mr Douglas has been briefed include:

- As Senior Counsel for *Aquila Ltd* in disputes with its co-joint venturer *Vale Ltd* concerning logistics and development of coal mining assets in Qld (ongoing).
- As sole Arbitrator in relation to a dispute between a Japanese company and an Australian Construction company concerning the warehouse premises of the Japanese company in Australia. [2012]
- As Senior Counsel for Deutsche Bank in the M F Global Liquidation (In *Re M F Global Australia Ltd (in liq)* [2012] NSWSC 994).
- As Mediator of a construction dispute concerning the upgrading of the leaching circuit at the Olympic Dam mine [2012].
- As sole Arbitrator in a dispute between a major Australian Steel company and its contractors [2012].
- As sole Arbitrator of a dispute between two mining companies as to the admission of a proof of debt in a winding-up [2012].
- As Senior Counsel for the State of New South Wales against Boral Ltd in an Arbitration before the Hon A M Gleeson AC, concerning the supply of timber from the NSW State Forests [2012].
- As Senior Counsel for the Independent State of Papua New Guinea, in an arbitration before the Hon A M Gleeson AC concerning an offshore mining project in the Bismark Sea (continuing) [2012].
- As Senior Counsel for a Chinese Steel Mill in enforcement and appeal proceedings in the Supreme Court of Western Australia arising out of an arbitration award by the Hon AM Gleeson AC in excess of AUD\$100million (*Rizhao Steel Holding Group Ltd v Mount Gibson Iron Ore & Anor* [2010] WASC 385) [2011].
- As Arbitrator on an LCIA Panel in London in a matter concerning a construction dispute in relation to a petrochemical plant in a middle eastern country [2011].

- As Senior Counsel in an arbitration concerning the valuation as between joint venturers of a silver lead zinc mine in Northern Queensland [2011]
- As Senior Counsel in a series of cases in Queensland concerning a joint venture in relation to the development of a major parcel of land on the outskirts of Brisbane (*Mango Boulevarde Pty Ltd v Spencer* [2010] QCA 209 (ongoing)).
- As Senior Counsel for *Hancock Prospecting Pty Ltd v Wright Prospecting Pty Ltd* in relation to the ownership of an interest in the Rhodes Ridge Iron Ore joint venture (*Hancock Prospecting Pty Ltd v Wright Prospecting Pty Ltd* [2010] WASC 44).
- As Senior Counsel for a major Australian construction company in an arbitration in Mumbai concerning the development of an oil and gas field in the Bay of Bengal [2008].