

## Dana C. MacGrath | **MacGrath Arbitration**

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### OVERVIEW

Dana MacGrath, FCI Arb, is an independent arbitrator based in New York listed on the rosters of various arbitral institutions and has served as co-arbitrator and sole arbitrator in multiple arbitrations over the course of her arbitration career of more than two decades. Her unique mix of experience includes serving as an arbitrator, arbitration practitioner, in-house counsel and professor of law.

Prior to launching her independent arbitrator practice, she spent more than two years in-house focusing on arbitration finance and 20+ years as an arbitration practitioner and arbitrator in the arbitration practice group at several global law firms, including Sidley Austin, Allen & Overy and O'Melveny & Myers, having started her legal career at Sullivan & Cromwell. She has a broad range of experience in arbitrations involving a variety of businesses and industries, among them oil and gas, LNG price reviews, construction, energy, finance, telecommunications, intellectual property (FRAND disputes), life sciences, sale of goods and international investments. She has also represented parties in U.S. courts regarding the enforceability of arbitration agreements and arbitral awards under the New York Convention. She has been recognized as a leader in international arbitration in various directories as well as a thought leader in arbitration third-party funding.

Dana is active within the international arbitration field across arbitral institutions and organizations. She is on the Council of the AAA-ICDR, co-chairs the AAA Large Complex Case Committee, and is a member of the AAA Nominating and Governance Committee. Dana is also an active member of the CPR Arbitration Committee. Previously she served as Chair of the Arbitration Committee of the Association of the Bar of the City of New York and as co-chair of the CPR Institute Arbitration Rules Revision Committee that revised CPR's domestic and international arbitration rules. Additionally, Dana served on the ICC Commission on Arbitration Task Force on Reducing Time and Cost in Complex Arbitration and the ICC Commission on Arbitration Task Force on National Rules of Procedure for Recognition and Enforcement of Foreign Awards Pursuant to the New York Convention of 1958.

Over the course of her arbitration career, Dana has been recognized as a leader in international arbitration in various directories including Chambers USA - Nationwide – International Arbitration and Who's Who Legal: Arbitration. She has also been recognized in the field of arbitration finance in various directories.

Dana is a committed leader in the diversity and inclusion space. She served as President of the Board of Directors of ArbitralWomen for four years (July 2018-June 2022), having joined the Board in 2016. She is also on the Global Steering Committee of the Equal Representation in Arbitration Pledge and launched the USA Sub-Committee of the Arbitration Pledge in late 2021. She is also Strategic Advisor and on the Global Steering Committee of Racial Equality for Arbitration Lawyers, on the Advisory Board of the Rising Arbitrators Initiative and on the North American Committee for the Campaign for Greener Arbitrations.

Dana regularly speaks and writes on international arbitration issues. She co-authored a chapter on Covid-19 and Third-Party Funding published by Kluwer International in 2020, and several articles on recent case law regarding U.S. discovery pursuant to 28 U.S.C. § 1782 in aid of foreign arbitrations. She long served as an adjunct professor of law at Brooklyn Law School teaching a seminar on international commercial arbitration and coaching the Brooklyn Vis Moot team.

Dana earned her J.D. from New York University School of Law in 1996 and her B.A., *cum laude*, from Middlebury College in 1991. She is a member of the New York Bar. She is fluent in English and proficient in French, having majored in French at Middlebury and lived in Paris for a year.

## EXPERIENCE

Dana MacGrath has decades of experience in international arbitration as arbitrator and counsel. She has handled arbitrations under common law and civil law, seated around the globe. Her cases have been administered by a wide variety of international arbitral institutions (for example AAA/ICDR, ICC, ICSID, LCIA) and she has also handled ad hoc arbitrations.

Her international dispute resolution experience stems from her role as practitioner and arbitrator in arbitrations, counsel in international litigation, and in-house counsel with a focus on arbitration finance.

## PROFESSIONAL BACKGROUND

<b>MACGRATH ARBITRATION</b> , New York, NY <i>Independent Arbitrator</i>	August 2021 – Present
<b>OMNI BRIDGEWAY</b> , New York, NY <i>Investment Manager and In-House Legal Counsel</i>	January 2019 – August 2021
<b>SIDLEY AUSTIN LLP</b> , New York, NY <i>Partner and Counsel, International Arbitration Practice Group</i>	September 2013 – January 2019
<b>ALLEN &amp; OVERY LLP</b> , New York, NY <i>Counsel, Litigation and Arbitration</i>	November 2005 – September 2013
<b>O’MELVENY &amp; MYERS LLP</b> , New York, NY <i>Associate and Counsel, Litigation and Arbitration</i>	December 1997 – November 2005
<b>SULLIVAN &amp; CROMWELL LLP</b> , New York, NY <i>Summer Associate and Associate, Litigation</i>	Summer 1995 & Sept. 1996 – Nov. 1997

## EDUCATION

<b>NEW YORK UNIVERSITY SCHOOL OF LAW</b> , New York, NY	J.D., 1996
<b>MIDDLEBURY COLLEGE</b> , Middlebury, VT	B.A., <i>cum laude</i> , 1991

## BAR ADMISSION

Admitted to the New York Bar in 1997

## ILLUSTRATIVE MATTERS

### *International Arbitration – Illustrative Experience*

- Arbitrator in commercial dispute under the ICC Rules between US and European parties relating to a licensing agreement.
- Arbitrator in commercial dispute under the AAA Commercial Arbitration Rules between a US corporation and a Canadian corporation regarding enforceability of a contractual provision in the parties’ agreement.
- Commercial dispute under the ICC Rules between US based international supplier and foreign counter party regarding joint venture dispute.
- Commercial dispute under the ICC Arbitration Rules between an Asian electronics manufacturer and a US based buyer.

- Commercial dispute under the ICDR Arbitration Rules between an Asia based telecommunications equipment manufacturer and a European company relating to patent license agreement and FRAND issues re SEPs.
- Commercial dispute involving international parties in the life sciences pharmaceutical industry.
- Commercial dispute under the ICDR Arbitration Rules between Asia based cellular telecommunications company and multinational corporation relating to patent portfolio licensing.
- Two related commercial disputes under the LCIA Arbitration Rules between subsidiary of a state-owned electricity producer and contractual counterparties relating to the operation of a natural gas pipeline system.
- Commercial dispute under ICC Arbitration Rules between liquified natural gas (LNG) producer and European purchaser relating to a contract sales price review / price reopener provision (price review arbitration).
- Commercial dispute under the ICC Rules between a subsidiary of U.S. financial institution and a South American sovereign involving claims for more than US\$700 million.
- Two commercial disputes under the ICC Rules between a European aerospace company and its counterparty.
- Commercial dispute under the ICC Rules between an LNG producer and European purchaser that resolved pricing issues under a long-term contract.
- Two commercial arbitration disputes between an Asia based oil company and its contractual counterparty relating to a joint venture to explore for oil in Siberia.
- Commercial dispute under the ICC Arbitration Rules between financial institutions and the Republic of Uruguay.
- Two parallel commercial arbitration disputes between U.S. based hotel builder/operator and the owner of the hotel, relating to international hotel construction project in Panama.

#### ***International Litigation – Illustrative Experience***

- Counsel for successful arbitration claimants in multiple award enforcement proceedings under the New York Convention in U.S. courts to confirm arbitration awards as U.S. judgments (primarily New York federal courts and D.C. federal courts), including two successful cases against the Republic of Uruguay and three successful cases against the Government of Belize.
- Counsel for arbitral institution in New York litigation involving doctrine of arbitral immunity.
- Counsel for financial institution in a joint venture dispute pending in federal court in New York in connection with a project in Mexico.
- Counsel for multinational oil company in a lawsuit alleging human rights violations arising from the construction of a natural gas pipeline in Asia.
- Counsel for financial institution in connection with internal investigation and ancillary New York federal court litigation.
- Counsel for U.S. corporation in antitrust class action litigation.

### ***Investment Manager and In House Legal Counsel***

Dana MacGrath spent more than two years in-house at Omni Bridgeway, a leading global litigation and arbitration finance company, where she led the arbitration investments out of the United States, served as co-leader of the company’s global arbitration group, assessed arbitration investment opportunities, advised management on legal issues relating to arbitration, presented investment opportunities to the Investment Committee, and monitored funded matters. Additionally, she delivered presentations to law firms and companies on third-party funding and regular spoke at conferences and webinars on arbitration issues and third-party funding in international arbitration.

## **RECOGNITION**

### **PROFESSIONAL DIRECTORIES AND AWARDS**

- Chambers USA - Nationwide - International Arbitration
- Who’s Who Legal: Arbitration: Thought Leader; Global Leader – Recommended
- Latinvex “Latin America’s Top 100 Female Lawyers”
- Expert Guides’ Guide to the World’s Leading Experts in Commercial Arbitration
- Leaders League - Arbitration Finance
- LawDragon: Global 100 Leaders in Legal Finance

### **RECENT PRESS COVERAGE**

- Law360, “ArbitralWomen President Starts Solo Arbitration Practice” (6 August 2021).
- Global Arbitration Review, “ArbitralWomen President Goes Solo in New York” (18 August 2021).
- The Impact Lawyers, “Interview with Dana MacGrath following the launch of her new arbitration project” (8 September 2021).

## **PROFESSIONAL ACTIVITIES**

### **Bar Associations and Arbitral Institutions**

#### **NEW YORK CITY BAR ASSOCIATION**

Chair, Arbitration Committee, (September 2015 to June 2018); Affiliate Member of Arbitration Committee (September 2018 to Present); Affiliate Member of ICDC (September 2018 to Present)

#### **AMERICAN ARBITRATION ASSOCIATION–INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

Council Member (2019 to Present); Co-Chair, Large Complex Case Committee (2019 to Present); Member, Nominating and Governance Committee (2019 to Present)

#### **ICC COMMISSION ON ARBITRATION**

Member, Task Force on Reducing Time and Cost in Complex Arbitration; Task Force on National Rules of Procedure for Recognition and Enforcement of Foreign Awards

#### **INTERNATIONAL INSTITUTE FOR CONFLICT PREVENTION AND RESOLUTION (CPR INSTITUTE)**

Co-Chair, Arbitration Rules Revision Committee (2017 to 2019); Co-Chair, CPR-YADR (2009 to 2015)

#### **NEW YORK INTERNATIONAL ARBITRATION CENTER (NYIAC)**

Member, Advisory Council (2020 to 2021)

#### **CHARTERED INSTITUTE OF ARBITRATORS (CIARB)**

Member (September 2021 to Present); Fellow (December 2021 to Present)

#### **AMERICAN REVIEW OF INTERNATIONAL ARBITRATION (COLUMBIA LAW SCHOOL)**

Member, Peer Review Board (2019 to Present)

### **Academia**

#### **BROOKLYN LAW SCHOOL**

Adjunct Professor of Law, International Commercial Arbitration Seminar and Faculty Coach (September 2009 to 2021)

#### **CORNELL LAW SCHOOL**

Adjunct Professor of Law, International Business Transactions (Fall 2008)

### **Diversity and Inclusion**

**ARBITRALWOMEN** – President (July 2018 to June 2022); Board Member (July 2016 to June 2022)

**EQUAL REPRESENTATION IN ARBITRATION PLEDGE** –Global Steering Committee (2019 to Present); founder and Co-Chair of the USA Sub-Committee (2021 to Present)

**RACIAL EQUALITY FOR ARBITRATION LAWYERS** –Steering Committee Member (2020 to Present)

**RISING ARBITRATORS INITIATIVE (RAI)** – Advisory Committee Member (2021 to Present)

### **Community Service**

**CAMPAIGN FOR GREENER ARBITRATIONS** – North America Sub-Committee Member (2021 to Present)

## PUBLICATIONS

- “[Spotlight on Dana MacGrath](#),” Interview by [International Arbitration Juniors](#) (March 2022).
- [Interview of Dana MacGrath](#) on her Role as President of ArbitralWomen since 2018 – Special Edition Interview for International Women’s Day 2022 – [Digital Coffee Break in Arbitration](#) (March 2022).
- “[Mute Off Thursdays Celebrates its First Anniversary on 15th April 2021!](#)” ArbitralWomen News Page (April 2021).
- “[Launch of Racial Equality for Arbitration Lawyers \(REAL\)](#),” ArbitralWomen News Page (December 2020).
- “[Launch of the ERA Pledge Corporate Guidelines!](#)” ArbitralWomen News Page (November 2020).
- “[Circuit Split on 28 U.S.C. § 1782: Are U.S. Courts Trending Against Discovery for Foreign Private Arbitrations?](#)” Kluwer Arbitration Blog (October 2020).
- “[Second Circuit Rules in \*Hanwei Guo\* that Section 1782 Does Not Apply to Private Commercial Arbitrations](#),” ICC Dispute Resolution Bulletin, Issue 3 (2020).
- “[Third-Party Funding and Covid-19](#),” Chapter 10 of [International Arbitration and the Covid-19 Revolution](#), Kluwer International (October 2020).
- “[The Launch of Mute Off Thursdays – Virtual Networking and Knowledge-Exchange for Women in Arbitration](#),” ArbitralWomen News Page (May 2020).
- “[Response by the European Commission on “CETA Arbitrator Roster – Where Are the Women?”](#)” ArbitralWomen News Page (May 2020).
- “[Necessary Change: Planning Past Bias Through the ArbitralWomen Diversity Toolkit™](#)” ArbitralWomen News Page (May 2020).
- “[Several Firsts for the 2020 Vis East Moot \(Virtual Vis East – VVE\)](#),” ArbitralWomen News Page (April 2020).
- “[CETA List of Arbitrators – Where are the Women?](#)” ArbitralWomen News Page (January 2020).
- “[Increased Transparency in Arbitrator Appointment Procedures in Commercial Arbitrations](#),” Practical Law Arbitration Blog (April 25, 2018).
- “Landmark Decision on Arbitral Immunity: The Risk of Sanctions for Lawsuits Against Arbitrators,” *Alternatives*, Vol. 33 No. 9 (October 2015).
- “Arbitration of International Commercial Disputes,” [Successful Partnering Between Inside and Outside Counsel](#) (Robert L. Haig, ed., 2015).
- “Does A Private International Arbitration Fall Within ‘Foreign or International Tribunal’ in 28 U.S.C. § 1782? Practice Pointers for Seeking Discovery in Aid of Arbitration after *Intel Corp. v. Advanced Micro Devices, Inc.*,” [American Arbitration Association Yearbook on Arbitration and the Law](#), Juris Publishing, Inc. (2011).

## PRESENTATIONS

- “Cutting Edge Issues in Commercial Arbitration,” New York Law School Webinar sponsored by the American Arbitration Association (April 2022).
- “Enforcement of awards and local courts - dialogue between traditions and the New York Convention,” 8th Annual Harvard Law School International Arbitration Conference (April 2022).
- “Debunking Diversity Myths in International Arbitration: Why More Needs to Be Done,” New York State Bar Association (March 2022).
- “Advocacy and Oral Submissions in International Arbitration on a Virtual Platform,” International Centre for Dispute Resolution (February 2022).
- “Divided We Fall: Expanding Diversity and Intersectionality in International Arbitration,” Webinar (February 2022).
- “ADR & Diversity Symposium,” New York Law School and America Arbitration-International Centre for Dispute Resolution Virtual Conference (January 2022).
- “New York Stories: Career Options, Opportunities and Challenges in International Arbitration,” New York Arbitration Week (November 2021).
- “Where to go and what to do when you get there: Identifying the law applicable to the arbitration agreement,” ICDR Young & International Webinar (November 2021).
- Chair of Mock Arbitral Tribunal, FIAA Expert Workshop (November 2021).
- “BVI Arbitration Week: Third-Party Funding in the Caribbean,” BVI IAC Webinar (November 2021).
- “Shaping the Future of Greener International Arbitration Conferences and Training,” Campaign for Greener Arbitrations Virtual Workshop (October 2021).
- “Best Practices: Arbitrator Roundtable on Different Approaches to Arbitration,” New York State Bar Association, Virtual Roundtable (September 2021).
- “AI Diversity Campaign: Assessing and Resolving the Disparities in Arbitrator Appointments,” Arbitrator Intelligence webinar (September 2021).
- “AIAC Diversity Day, Checklist for Change,” AIAC Asia ADR Week 2021 (August 2021).
- Initiatives in International Arbitration, International Arbitration Juniors, Clubhouse (July 2021).
- SIAC-CI Arb Virtual Debate on Repeat Arbitrator Appointments from the Same Party, Webinar (July 2021).
- “Hot Topics in International Dispute Resolution,” Virtual ACR GNY Annual Conference, LemonADR! (June 2021).
- “Arbitrating the Vis Case in Practice,” Bucerus Law School and Center for International Dispute Resolution, Webinar (May 2021).

- “Cutting Edge Issues in Commercial Arbitration,” New York Law School and American Arbitration Association, Webinar (April 2021).
- “Ethics in International Arbitration Award Enforcement,” Juris Legal Information, Webinar (April 2021).
- “Fireside Chat with Dana MacGrath,” Arbitration Happy Hour on Clubhouse (March 2021).
- “[Dana MacGrath im Porträt](#),” Breaking Through, Interview (March 2021).
- “Third Party Financing with Dana MacGrath,” The Tea on International Arbitration, International Arbitration Podcast (March 2021).
- “Women in Mediation: Negotiating Above Gender, Race and Systemic Bias in the Selection and Treatment of Neutrals,” Jamacia International Arbitration Center (JAIAC), Webinar (February 2021).
- “ADR: Diversity and Inclusivity,” International Centre for Alternative Dispute Resolution (ICADR), Webinar (December 2020).
- “Stronger Together: Colloquy on Diversity and Perseverance,” New York Arbitration Week, Webinar (November 2020).
- “Arbitration in Times of Pandemic: Procedural changes and impact on diversity: for better or worse?” Dubai Arbitration Week, Webinar (November 2020).
- “The enforcement of intra-EU awards: will the US come to the rescue?” Freshfields Bruckhaus Deringer, Webinar (November 2020).
- “Does Third Party Funding Help or Harm International Arbitration – Contrasting Perspectives of Parties, Arbitrators and Funders,” UIA International Association of Lawyers, Webinar (October 2020).
- “Disclosure Practice and Other Ethical Matters: The Impact of Recent Rulings on Arbitrators and Experts,” GAR Interactive North America, Webinar (October 2020).
- “Fireside Chat with ArbitralWomen President Dana MacGrath,” Australia Arbitration Week, Webinar (October 2020).
- “The Great Debate Part 2: Third Party Funding of International Commercial Arbitrations,” Arbinsol, Webinar (September 2020).
- “International Arbitration, Insolvency and Third-Party Funding – The Post-Pandemic State of Affairs,” Center for International Legal Studies (CILS), Webinar (June 2020).
- “Third-Party Funding in International Arbitration and Cross Border Litigation: The Current State of Play,” American Bar Association International Law Section (ABA ILS), Webinar (June 2020).
- “Third-Party Funding Part II: The Nuts and Bolts of the Funding Process,” Garibaldi Inn, Webinar (May 2020).
- “Cutting Edge Issues in Commercial Arbitration,” American Arbitration Association, Webinar (May 2020).



- “Early-Stage Business and Damages Evaluation in International Arbitration,” ICC Young Arbitrators Forum, New York, NY (February 2020).
- “A Year in Review in Regional and International Arbitration,” GAR Live Women in Arbitration, London (December 2019).
- “Should regionalism be an item on the agenda?” 17th ICC Miami Conference on International Arbitration, Miami (November 2019).
- “ArbitralWomen Challenge: New Ways to Champion Diversity,” Hong Kong Arbitration Week, Hong Kong (October 2019).
- “Private Equity, Financial Services and Insurance Disputes,” Hong Kong Arbitration Week, Hong Kong (October 2019).
- “Third Party Funding in Arbitration: What Challenges Lie Ahead,” 2019 Brazilian Arbitration Day at NYU, New York (September 2019).
- “PLI: International Arbitration 2019,” New York (June 2019).
- “Arbitration Finance: A Deep Dive,” Harvard Litigation Finance Symposium, Cambridge, MA (April 2019).
- “What Parties and Their Counsel Have a Right to Expect and Arbitrators Should Be Delivering: Arbitration at Its Best,” NYSBA Arbitration, New York (March 2019).
- “Diversity in Arbitration,” Columbia Arbitration Day, New York (March 2019).
- “Hot Topics in International Arbitration,” iLaw 2019 International Law Conference, Miami (February 2019).
- CPR Annual Meeting (February 2019).
- “The Future of ADR. 2019 CPR Canada Conference Resolving the Unresolvable,” CPR Institute Canada Conference, Toronto (February 2019).
- “The Equal Representation in Arbitration Pledge: Past, Present and Future,” NYU School of Law, New York (April 2018).
- “Careers in International Dispute Resolution – Insights and Perspectives,” ArbitralWomen Panel Discussion, Vienna (March 2018).
- “Effective Dispute Resolution Clauses: Perspectives on Drafting Do’s & Don’ts,” CPR Annual Meeting 2018, Atlanta (March 2018).
- “International Arbitration and the Law of the Second Circuit: International Perspectives,” co-sponsored by New York International Arbitration Center (NYIAC), Center for International Commercial and Investment Arbitration (CICIA) and Sidley Austin LLP, New York (March 2018).
- “The Glass Ceiling: Challenges that Women Face in International Arbitration,” ArbitralWomen Panel Discussion co-organized by Sidley Austin LLP, New York (September 2017).
- Co-Moderator of The GAR Live symposium (Tylney Hall format) – GAR Live New York, New York (September 2017).

- “Enforcement of Arbitral Awards,” ArbitralWomen Panel Discussion at BVI Arbitration Week at the BVI International Arbitration Centre, Tortola (May 2017).
- “Looking Ahead: Effectively Arbitrating Complex Disputes in the Global Energy Sector – The Role of Experts in Gas Price Review Arbitration,” ICDR Oil & Gas Arbitration Conference, Houston (April 2017).
- “Cross-Examination in International Arbitration,” International Institute for Conflict Prevention & Resolution (CPR) Annual Meeting, Miami (March 2017).
- “Key Developments in 2016,” CPR Y-ADR/New York International Arbitration (NYIAC) Seminar, New York (December 2016).
- “Y-ADR Mock Procedural Hearing under CPR Rules for Administered Arbitration of International Disputes,” Chair of Mock Arbitral Tribunal, Washington, D.C. (September 2016).
- “Proof of Foreign Law – A Comparison of the Approaches in the U.S. Courts and in International Arbitration,” 2016 Spring Meeting of ABA Section of International Law, New York (April 2016).
- “Choosing Arbitration or Litigation to Resolve Disputes: In-House Counsel Perspectives,” CPR Y-ADR Corporate Roundtable, Chicago (July 2015).
- “Corruption and International Arbitration,” co-sponsored by Young ICCA and University of Pennsylvania Law School, Philadelphia (April 2015).