

Scott Ellis

Francis Burt Chambers
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Qualifications

Bachelor of Jurisprudence (UWA)	1982
Bachelor of Laws (UWA)	1983
Master of Laws (UWA)	1994
Professional Certificate in Arbitration, General & Advanced (Uni of Adelaide)	2003
Diploma in International Commercial Arbitration (Queen Mary, Uni of London)	2007

Admitted: Barrister and Solicitor of the Supreme Court of Western Australia (1983).
Practitioner of the Federal Court of Australia.

Appointments: Commissioner, District Court of Western Australia, October-November 2006.
Member, Superannuation Complaints Tribunal since 2005
Member of the Panel of legal experts for the Gas Review Board
Alternate Referee, Insurance Industry Ombudsman Service
Registered as an adjudicator under the *Construction Contracts Act, 2004* (WA) and the *Construction Contracts (Security of Payments) Act* (NT).

Accredited to National Mediation Accreditation Standards by the Chartered Institute of Arbitrators.

Accredited as a mediator by LEADR.

Chartered Arbitrator and Fellow of the Chartered Institute of Arbitrators

Graded as an arbitrator by the Institute of Arbitrators and Mediators Australia (Grade 2).

National Councillor, Institute of Arbitrators and Mediators Australia

WA Committee Member, IAMA

Deputy Convenor, Law Society ADR Committee

Member of the panel maintained by the Office of the Mediation Adviser for franchising disputes.

Profile

Experienced, practical dispute resolution lawyer, operating in the commercial and employee relations areas, both as a litigator and an ADR provider. Appreciation of both technical and strategic issues over a variety of areas of law. Clear communication skills. Able to identify and co-ordinate responses to issues in complex situations under pressure.

Career Summary

Barrister, arbitrator, mediator and adjudicator, Francis Burt Chambers, Perth – 2005 to date

Partner at Freehills, a leading commercial law firm, from 1990 to 2003, when became consultant in house counsel with Freehills and commenced private ADR practice.

Commercial dispute resolution lawyer, focussing on:

- commercial law
- intellectual property
- employee and workplace relations

Career History

Barrister, Francis Burt Chambers - October 2005

Freehills, Consultant, 1 January 2004 to October 2005. Private ADR consultancy, providing dispute resolution services.

Freehills, Partner, 1 July 1990 – 31 December 2003.

Muir Williams Nicholson (which became Freehill Hollingdale and Page and then Freehills), Solicitor 1983 – 1990

Muir Williams Nicholson, Articled Clerk - 1983

Major strengths and achievements

- **“Alternative” dispute resolution**

Acting as mediator/conciliator. Types of dispute include:

- building and construction disputes;
- commercial disputes, including franchises and business disputes;
- property/partnership disputes;
- workplace related matters; and
- inheritance.

Experience in role as decision maker as:

- Commissioner of the District Court of Western Australia;
- member of Superannuation Complaints Tribunal;
- arbitrator under the *Commercial Arbitration Act 1985*;

- adjudicator under the *Construction Contracts Act 2004*;
- panellist in disputes under auDA dispute resolution scheme; and
- alternate referee, Insurance Ombudsman Scheme.

Acted as third party neutral in respect of approximately 100 matters with a combined amount in dispute of more than \$150 million.

Representation of parties in arbitrations, mediations and conciliations, both private and court annexed.

- **Litigation**

Primary responsibility for substantial litigation involving complicated factual and legal issues in a variety of areas of law and the coordination of teams of up to 8 solicitors. Generally required instructing junior and senior counsel. Examples include:

- (a) *Maritime Union of Australia v Geraldton Port Authority* (1999) 93 FCR 34 – Federal Court proceedings relating to breaches of the freedom of association provisions associated with restructuring of Port operations;
- (b) *Woodside Energy Ltd v McDonald and Others* [2003] FCA 69 – Federal Court proceedings in relation to access to works on Train IV.
- (c) *Hamersley Iron Pty Limited v CEPU and Lovell* (1998) 19 WAR 316 – proceedings in the Full Court of the Supreme Court of Western Australia for contempt of court through misuse of discovered documents and interfering with the administration of justice; and
- (d) *Commissioner of State Taxation v Nischu* (1991) 4 WAR 437 – appeals concerning the impact of associated intellectual property on the value of land.

- **Appearance work**

Acting as counsel in a wide variety of tribunals and courts, including the Federal Court of Australia, the Supreme Court of Western Australia, Industrial Tribunals and the District Court of Western Australia.

- **Advisory work**

Providing cogent, practical advice to clients including:

- (a) interpretation of commercial documentation;
- (b) employee relations issues, including misconduct and terminations and discrimination;
- (c) small business disputes;
- (d) intellectual property;
- (e) strategic advice and action plans; and
- (f) advice in connection with the conduct of proceedings.

Substantive areas of law includes commercial law, employee/industrial relations, statutory interpretation, trade practices and intellectual property.

- **Plain language communications**

Development and implementation of pro-active communications strategies by clients involved in disputes.

Preparation of simply expressed, but effective documents that will be signed by “lay persons”. For example, the preparation of “plain English” franchise agreements.

- **Relevant papers**

“Arbitrators and Self Represented Parties” in (2004) 23 The Arbitrator and Mediator 15.

“Arbitration of Statutory Rights”, Presentation to National Conference of the Institute of Arbitrators and Mediators Australia.

“ADR Alternatives to Court Processes”, presentation for Australian Insurance Law Association, Perth 20 February 2008.

“Delay and Disruption Claims”, presentation to Hill International Masterclass, Perth 13 March 2008.