

## Dana MacGrath

**Nationality:** American

**Languages:** English (fluent), French (proficient)



Dana MacGrath is a leading independent arbitrator with over two decades worth of experience in international arbitration disputes.

Before launching her independent practice as an arbitrator, Dana gained unparalleled experience in international arbitration in the arbitration teams at several leading global law firms and in-house on arbitration finance.

She is a specialist in energy, oil & gas disputes including disputes relating to LNG price reviews, as well as construction, finance, telecommunications, intellectual property, sale of goods, life sciences, and international investments. Dana has been involved in multi-billion dollar cases under common and civil law in matters administered by the AAA/ICDR, ICC, ICSID, LCIA, as well as ad hoc arbitrations.

Dana has also been instrumental in developing international arbitration and has given her time generously to several successful organisations. She is a committed leader in diversity and inclusion and served as the President of the Board of Directors of ArbitralWomen (1 July 2018 - 30 June 2022). She is also on the Global Steering Committee for Equal Representation in Arbitration Pledge (Arbitration Pledge) and launched the USA Subcommittee of the Arbitration Pledge in late 2021. Additionally, she is a Strategic Advisor on the Global Steering Committee of Racial Equality for Arbitration Lawyers (R.E.A.L.), on the Advisory Board of the Rising Arbitrators Initiative (RAI), on the North American Committee for the Campaign for Greener Arbitrations, and on the Executive Committee of the Equal Representation of Expert Witnesses (ERE).

Over the years, Dana has been recognised as a leader in international arbitration in various directories including Chambers USA and Who's Who Legal.

In addition to her arbitrator practice, Dana is an Adjunct Professor of Law at Fordham Law School. She is based in New York and is a Fellow of the Chartered Institute of Arbitrators (FCIArb).

## Sector Expertise

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- Energy, Oil & Gas
- Construction, Engineering & Infrastructure
- Technology & Telecommunications

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- Banking & Finance
- Commercial Dispute Resolution
- Intellectual Property

## Construction, Engineering & Infrastructure

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Dana has been involved in disputes relating to hotel construction projects in Asia and South America between hotel builders/operators and hospitality companies.

## Technology & Telecommunications

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Dana has a broad understanding of the technology & telecommunications sector, having been involved in matters subject to arbitration by the ICC and ICDR involving telecommunications systems in Latin America, various joint-venture disputes and construction disputes, and solar panels on commercial satellites.

Dana has a breadth of experience with energy in the telecoms sector, dealing with disputes under the LCIA, ICC, and ICDR rules concerning various areas, including gas pipeline systems, liquefied natural gas (LNG) in relation to price reviews, operations, and patent license agreements.

Dana's patent experience includes cellular patent pricing disputes relating to SEPs (standard essential patents) for global mobile licensing that are subject to FRAND (fair reasonable and non-discriminatory pricing).

## Banking & Finance

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Dana has experience in disputes under ICC rules concerning investments in Latin American banks by global financial institutions involving claims worth more than US\$700 million and also claims for specific performance of contractual provisions.

## Commercial Dispute Resolution

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Dana has extensive experience in commercial dispute resolution matters under the AAA and ICC rules involving US, Canadian, Asian, South American and European parties. Matters have related to the enforcement of contractual provisions, joint venture disputes, electronics manufacturers, life sciences pharmaceuticals, exploration for oil, subsidiaries, aerospace companies and counterparties, cross-border sale of goods disputes, and disputes involving sovereigns.

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## Intellectual Property

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Dana's intellectual property experience consists of commercial arbitration disputes under the ICDR and ICC rules relating to patent portfolio licensing, licensing agreements, and FRAND issues regarding SEPs involving Asia-based telecommunication companies and US and European parties.

## Experience

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### Arbitration

- Chair of arbitral tribunal in an ICDR commercial dispute under the AAA Commercial Arbitration Rules between US and European parties relating to agreement to develop and provide computer software.
- Sole arbitrator in ICC contract dispute between US parties relating to a technology licensing agreement.
- Sole arbitrator in ICDR arbitration relating to a contractual dispute involving the life sciences sector.
- Co-arbitrator in ICDR arbitration relating to business relationship relating to acquisition and sale of artwork.
- Chair of arbitral tribunal in commercial dispute under JAMS arbitration rules relating to a contract dispute.
- Co-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 and European parties relating to a licensing 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 disputes under ICC Arbitration Rules between liquified natural gas (LNG) producer and European purchasers relating to a contract sales price review/price reopener provision (price review arbitration).

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- 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.

#### Litigation Counsel in US Courts

- 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.

## Academic & Professional Qualifications

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#### Education

- New York University School of Law, New York, NY - J.D., 1996
- Middlebury College, Middlebury, VT - B.A., *Cum Laude*, 1991

#### Bar Admission

- New York, 1997

#### Professional

- MacGrath Arbitration, New York, NY. August 2021 – Present. *Independent Arbitrator*
- Omni Bridgeway, New York, NY. January 2019 – August 2021. *Investment Manager and In-House Legal Counsel*

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- Sidley Austin LLP, New York, NY. September 2013 – January 2019. *Partner and Counsel, International Arbitration Practice Group*
- Allen & Overy LLP, New York, NY. November 2005 – September 2013. *Counsel, Litigation and Arbitration*
- O’Melveny & Myers LLP, New York, NY. December 1997 – November 2005. *Associate and Counsel, Litigation and Arbitration*
- Sullivan & Cromwell LLP, New York, NY. Summer 1995 & Sept. 1996 – Nov. 1997. *Summer Associate and Associate, Litigation*

## Professional Associations and Recognitions

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- 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-Y-ADR (2009 to 2015)
- New York International Arbitration Center (NYIAC) - Member, Advisory Council (2020 to 2021); Director (2022 to Present)
- Chartered Institute of Arbitrators (CIArb) - Member (September 2021 to December 2021); Fellow (December 2021 to Present)
- American Review of International Arbitration (Columbia Law School) - Member, Peer Review Board (2019 to Present)
- International Arbitration Club of New York (IACNY) – Member
- ArbitralWomen – Immediate Past President (1 July 2018 to 30 June 2022); Advisory Council (1 July 2022 to Present)
- Equal Representation in Arbitration Pledge – Global Steering Committee Member (2019 to Present) and co-chair of the USA Sub-Committee (November 2021 to Present)
- Campaign for Greener Arbitrations – Member of the North America Sub-Committee (2021 to Present)
- Racial Equality for Arbitration Lawyers (R.E.A.L.) – Strategic Advisor and Steering Committee Member (January 2021 to Present)
- Silicon Valley Arbitration and Mediation Center (SVAMC) - Member
- Admitted to AAA Panel of Commercial Arbitrators
- Admitted to ICDR Roster of Arbitrators
- Admitted to CPR Panel of Distinguished Neutrals (as arbitrator)
- Admitted to the Singapore International Arbitration Centre Panel of Arbitrators (SIAC)
- Admitted to the arbitrator roster of the Japan Commercial Arbitration Association

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## Publications, Articles & Thought Leadership

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### Publications

- [“How Do You Get to Carnegie Hall?” The Unsung Benefits of Mock Arbitrations](#), Kluwer Arbitration Blog (June 2023).
- [“I Can See Clearly Now the Rain Is Gone...” U.S. Supreme Court Definitively Holds that Section 1782 Does Not Permit Discovery Assistance from U.S. Courts for Private Foreign or International Arbitrations](#), Kluwer Arbitration Blog (June 2022).
- [“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).

**Speaking Engagements**

- Chartered Institute of Arbitrators Learning Lab Series on Arbitrator Management of Guerilla Tactics in International Arbitration (June 2023)
- "Cutting Edge Issues in Commercial Arbitration," New York Law School and American Arbitration Association, New York (April 2023)
- AAA-ICDR California Conference (March 2023)
- ABA Arbitration Training Institute in NYC (March 9-10, 2023)
- Greener Arbitrations – North American Committee Webinar and Arbitrator Roundtable with the AAA (February 2023)
- Emerging Trends in Third Funding Party Funding, NYU Law Conference (New York, February 2023)
- "Tough Calls and Recurrent Issues in Arbitration" - (Arbitrator Roundtable, New York State Bar Association, December 2022)
- "GAR Live: Women in Arbitration" (London, December 2022)
- "Including the world: achieving equity, diversity and inclusiveness"- ICC Canada Conference (Montreal, 2022)
- "ADR Providers' Roundtable: An Opportunity to Broaden Your ADR Practice and Elevate Your Profile (The Providers)" – CI Arb Americas Conference (Miami, October 2022)
- "Emerging trends in ADR and Arbitration in Africa" - 2<sup>nd</sup> Annual ICC Kenya Training & Conference on ADR and Arbitration 2022 (Kenya, September 2022)
- Future of Technology in Arbitration Conference – FOTA2022 (London, September 2022)
- "[Insider's Views on Arbitral Appointments in the New Normal: Perspectives from the London Court of International Arbitration and the Equal Representation in Arbitration Pledge.](#)"- CI Arb-NAB webinar (August 2022)
- "Sleepless Nights: How Arbitrators Deal with Tricky Situations," CI Arb New York Branch Virtual Program (June 2022)
- "Diversity in International Arbitration," International Arbitration Club of New York (IACNY) (June 2022)
- PLI International Arbitration 2022 (New York, June 2022)
- "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)

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- “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,” Bucerius 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,” Jamicia 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).

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- “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)

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- “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)

## Directories & Client Quotes

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### Recognitions

- Chambers USA - Nationwide - International Arbitration
- Who’s Who Legal: Arbitration: Thought Leader; Global Leader – Recommended
- Latinex “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

### 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).

*“Dana is highly recommended for commercial arbitration”*

*“She is an absolutely fantastic leader”*

*“She is smart, collaborative and a relentless advocate for diversity”*

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