

## Daniel Kalderimis

**CALL: 1999 (NEW ZEALAND); 2005 (NEW YORK); 2006 (SOLICITOR, ENGLAND & WALES); 2021 (BARRISTER, ENGLAND & WALES)**

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Languages: French (Conversational)



### Overview

Daniel Kalderimis has over 20 years' experience as a versatile, effective and proven advocate who provides an edge in a wide range of complex disputes.

With broad experience and interests, he has a dedicated focus on advocacy in international arbitrations across the Asia-Pacific region. Daniel is also active in commercial and public law litigation, including in the emerging area of legal duties and climate change.

Daniel has appeared at all levels of the New Zealand court system and before numerous international tribunals in Singapore, London and elsewhere. Until December 2020, he was a partner in the dispute resolution team of Chapman Tripp where, after returning from practising international arbitration and public international law at Freshfields Bruckhaus Deringer LLP in London, he founded and led the firm's international law practice. He is admitted in New Zealand, New York and England & Wales.

Daniel is widely recognised for his expertise in international arbitration, public and private international law and cross-border dispute resolution. He regularly acts as counsel in international arbitrations and has experience as an ICC arbitrator. Daniel acted on the first bilateral investment treaty arbitration held in New Zealand. Daniel is New Zealand's national correspondent to UNCITRAL for the New York Convention and the Model Law.

Daniel has taught at Columbia Law School, Victoria University of Wellington Law School and Otago Law School. He is a Fellow of the Arbitrators' and Mediators' Institute of New Zealand.

### Professional memberships

- American Society of International Law: Member
- AMINZ Arbitration Appeals Tribunal, Appointments Advisory Panel and International Arbitration Committee: Member
- Arbitrators' and Mediators' Association of New Zealand: Fellow
- LCIA Asia Pacific Users' Council: Member
- New Zealand Council of Legal Education: Moderator (contract law)
- New Zealand Law Society Civil Litigation and Tribunals Committee: Convenor
- New Zealand Law Society Litigation Skills Programme: Faculty Member
- New Zealand National Correspondent to UNCITRAL for the Model Law on International Commercial Arbitration and the New York Convention
- New Zealand representative to the ICC Commission
- New Zealand Rules Committee: Member
- SIAC Asia Pacific Users' Council: Member

He is recognised as a leading individual in dispute resolution in *Chambers Global*, *Chambers Asia Pacific* and *The Legal 500* (where he is listed in the Hall of Fame for eight successive years of inclusion) and has, for a decade, been recommended by *Who's Who Legal: Arbitration*.

Daniel resides in New Zealand and is a member of Thorndon Chambers in Wellington and Richmond Chambers in Auckland. His international practice is conducted through Twenty Essex in Singapore.

## Education

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- Columbia Law School: LLM
- Victoria University of Wellington: LLB Hons (First Class) (graduating first in class)
- Victoria University of Wellington: BA (English and Philosophy)

## Publications

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- Co-author of [public legal opinion](#) on climate change and its intersection with director and investment duties as well as [practical toolkit for directors](#) addressing climate change issues, co-author (with Nicola Swan of Chapman Tripp).
- "International Investment Law and Arbitration", Chapter in A Hood & A Hertogen (eds) *International Law in Aotearoa-New Zealand* (forthcoming, *Thompson Reuters*).
- "Into a Brave New World: Reflections on the Character of International Arbitration" (2018) 34(4) *Arbitration International*.
- "Williams & Kawharu on Arbitration" (2ed, 2017, LexisNexis), contributing author, with Sir D Williams QC, A Kawharu, W Miles QC and A Kirk (also First Edition in 2011).
- "The Future of the ICSID Convention: Bigger, Better, Faster?", Chapter 22 in C Baltag (ed) *ICSID Convention After 50 Years: Unsettled Issues* (*Wolters Kluwer*, 2017).
- "The Authority of Investment Treaty Tribunals to Issue Orders Restraining Domestic Court Proceedings" (2016) 31(3) *ICSID Rev-FILJ* 549.
- Co-author of "Toolkit for New Zealand businesses operating overseas on managing bribery and corruption risks" (*Business NZ*).
- "Commentaries on the ICSID Convention and ICSID Arbitration Rules" in L Mistelis (ed) *Concise International Arbitration* (2ed, *Kluwer Law International*, 2015) (with N Rubins and B Love) (also First Edition in 2010).

A full list is available on request.

## Lectures / talks

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Daniel is widely published on cross-border and international law issues and is a frequent speaker in these fields.

## Example cases

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- *Bathurst Resources Ltd v L&M Coal Holdings* [2020] NZCA 186, [2018] NZHC 2127 – acted in significant contract law case involving US\$40m debt claim and arguments concerning interpretation, implication and proper exercise of contractual discretions, now before the Supreme Court (decision reserved).

- *Smith v Fonterra Co-operative Group Ltd* (2020) 21 ELRNZ 634 – acting for respondents in climate change test case, now before the New Zealand Court of Appeal.
- *Mohammed v Guardians of New Zealand Superannuation* (2020) 25 PRNZ 205, [2021] NZHC 512 – successful intervention application in judicial review proceeding, in order to make public international law arguments, including relating to sovereign immunity and act of state.
- *New Zealand Steel v Minister of Commerce and Consumer Affairs* [2019] 2 NZLR 525 – acted in successful judicial review of Ministerial decision not to impose countervailing duties on allegedly subsidised steel imports from China. The decision was remade and again reviewed.

## Arbitration

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- One of New Zealand's most experienced arbitration counsel, active across the Asia-Pacific region. Has acted in UNCITRAL, ICC, SIAC, LCIA, ICSID and SCC proceedings and as an arbitrator.
- Acted for Fonterra in significant Singapore UNCITRAL arbitration relating to product supply.
- Acted for a New Zealand company in two Singapore SIAC arbitrations relating to the construction of geothermal power stations in Indonesia.
- Acted for a Singapore investor in an oil and gas dispute (London seat).
- Represented a United Kingdom investor against the Republic of Indonesia, in the first bilateral investment treaty arbitration hearing held in New Zealand.
- Acting with respect to New Zealand's first ICSID award recognition application.
- Acting in an arbitration against relating to a corporate change of control clause and including procedural cross-border assistance issues.
- Acted for a financial services company in a joint venture dispute relating to a US financial institution (London seat).
- Acted for a private equity company in a post-M&A dispute (Luxembourg seat).
- Acted, for an investor in Russian mobile phone company MegaFon, in Stockholm arbitration proceedings involving complex conflicts of laws and civil fraud issues.

## Cross-border litigation

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- *Republic of Kazakhstan v Mega Ltd* [2016] NZAR 810, (2016) 10 HRNZ 707 – successful application for orders that evidence be provided in support of letter of request from New York court.
- *Dalian Deepwater Developer Ltd v Dybdahl* [2015] NZLR 260 – successful application, under the Evidence Act 2006, for a New Zealand witness to be compelled to give evidence in a London LCIA arbitration.
- *Discovery Geo Corporation v STP Energy Pte Ltd* [2013] 2 NZLR 122 – successfully resisting interim orders sought in relation to ICC arbitration.

## Public international law

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- *Mohammed v Guardians of New Zealand Superannuation* (2020) 25 PRNZ 205, [2021] NZHC 512 – successful intervention application in judicial review proceeding, in order to make public international law arguments, including relating to sovereign immunity and act of state.
- Advising New Zealand entity conducting human rights due diligence pursuant to the United Nations Guiding Principles on Business and Human Rights.
- *New Zealand Steel v Minister of Commerce and Consumer Affairs* [2019] 2 NZLR 525 – acted in case involving detailed consideration of international trade law obligations. The decision was remade and again reviewed.
- Has given detailed advice on environmental, social and governance considerations and investment obligations.

## Commercial litigation

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- *Bathurst Resources Ltd v L&M Coal Holdings* [2020] NZCA 186, [2018] NZHC 2127 – significant contract law case involving US\$40m debt claim, with Supreme Court decision presently reserved.
- Acting for Fonterra in a range of corporate and commercial disputes involving breach of contract (e.g. *Interlact Ltd v Fonterra TM Ltd* [2017] NZHC 1086 (successful summary judgment and strike out of contract claim)), breach of

confidence and defamation.

- Acting for Morrison & Co in respect of Hong Kong joint venture dispute.
- *National Plant and Equipment Pty Ltd v P Mundy Heavy Equipment* [2020] NZHC 1201 – successful summary judgment application, based on constructive trust and unjust enrichment, leading to increased costs award.

## Climate change and the law

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- *Smith v Fonterra Co-operative Group Ltd* (2020) 21 ELRNZ 634 (HC) (strike-out application in respect of climate change test case, now before the New Zealand Court of Appeal).

## Energy and natural resources

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- *Bathurst Resources Ltd v L&M Coal Holdings* [2020] NZCA 186, [2018] NZHC 2127 – significant contract law case involving US\$40m debt claim, with Supreme Court decision presently reserved.
- Acted for Australian construction company in arbitration against New Zealand's former state-owned coal enterprise, relating to opencast mining dispute.
- Acted for a Singapore investor in an oil and gas London arbitration; also successfully resisting interim orders sought in relation to ICC arbitration: *Discovery Geo Corporation v STP Energy Pte Ltd* [2013] 2 NZLR 122.
- Acted for BP in oil and gas dispute relating to Algeria.
- Advised Mobil in respect of gas pricing arbitration disputes.

## Public law

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- *Mohammed v Guardians of New Zealand Superannuation* (2020) 25 PRNZ 205, [2021] NZHC 512 – successful intervention application in judicial review proceeding, in order to make public international law arguments, including relating to sovereign immunity and act of state.
- *New Zealand Steel v Minister of Commerce and Consumer Affairs* [2019] 2 NZLR 525 – successful judicial review of Ministerial decision not to impose countervailing duties on allegedly subsidised steel imports from China. The decision was remade and again reviewed.

## Civil fraud

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- Represented respondent in respect of significant restraint and forfeiture application under New Zealand's criminal proceeds legislation.
- Acted for an offshore bank in successfully securing New Zealand freezing orders to protect assets following fraud.
- Counsel in international arbitration involving allegations of money laundering, fraud and corruption in relation to Russia and Bermuda.

## Insolvency

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- *Cargill International SA v Solid Energy New Zealand Ltd* [2016] NZHC 1817 – successful opposition, on behalf of consortium of banks, to attempt to set aside deed of company arrangement resulting from voluntary administration process.
- *Financial Markets Authority v PTT* [2016] NZHC 692 – one of many rulings in judicial supervisory process relating to asset protection orders, receiverships and liquidations arising out of fraudulent business and investment scheme.
- Acted for the receivers of Strategic Finance Ltd in successfully settling claims against the former directors and auditors of that company following the 2008-9 global financial crisis.

## Sports law

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- *Ryan Taylor v New Zealand Olympic Committee*, Sports Tribunal, 28 July 2016, ST 02/12 – non-selection challenge for the Rio de Janeiro Olympics.
- *Marteletti v Athletics New Zealand*, Sports Tribunal, 28 July 2016, ST13/16 – non-selection challenge for the London Olympics.

## Recommendations

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Noted for his representation of some of New Zealand's most prestigious companies in high-profile matters, he is also highly respected for his expertise in the field of international law, acting regularly as both arbitration counsel and arbitrator. [Chambers Asia Pacific, 2021](#); [Chambers Global 2021](#)

Daniel is one of the best advocates around. [Who's Who Legal: Arbitration, 2021](#)

Offers advice on commercial disputes and is particularly adept in private international law and international arbitration, working with a broad range of industries. [Chambers Global, 2020](#)

He is a well-known arbitration specialist beyond the Asia-Pacific region. [Who's Who Legal: Arbitration, 2021](#)

According to one market source, 'he has a unique skill set in the sense that he is a very good litigator who understands international law, trade and trade remedies. He traverses both worlds, which is very rare in a small market like New Zealand.' [Chambers Global, 2020](#)

I was impressed by Daniel's mastery of the detail, hard work, and powerful hearing room presence. [Who's Who Legal: Arbitration, 2021](#)

... dubbed 'a very impressive guru of litigation' by one client, while another characterises him as an 'excellent strategist,' known for his 'great communication skills and ability to identify the essence of an issue'. [Chambers Asia Pacific, 2021](#)

Clients describe him as 'a sharp, skilled advocate', who is 'extremely easy to work with' and 'excellent in landmark cases'. [The Legal 500, 2016-2020](#)

He has real genius and a razor-sharp understanding of legal issues, which he translates into effective advocacy. [Who's Who Legal: Arbitration, 2019](#)

Clients say that Daniel is extremely smart, a great communicator and a really compelling advocate. [Chambers Asia Pacific, 2018](#)