

Rebecca C. Smithwick

Rebecca C. Smithwick is a tenacious litigator and trial lawyer. Her firm, Smithwick LLC, frequently acts as co-counsel with Schlam Stone & Dolan LLP on high-stakes, complex commercial disputes in the Commercial Division of the New York State Supreme Court and the federal courts venued in New York.

Ms. Smithwick hails from Melbourne, Australia, where she was admitted to practice in 2009, having graduated with honors from Monash Law School, one of the most prestigious law schools in Australia. Before relocating to New York City, Ms. Smithwick was an associate at Corrs Chambers Westgarth – a world class, full service commercial law firm consistently involved in the highest profile work in Australia and the Asia Pacific region. At Corrs, Ms. Smithwick was involved in complex, multi-party proceedings within the highest courts in Australia. Of note, Ms. Smithwick was the instructing solicitor at 12 multi-day interlocutory applications and a nine-week substantive trial for one of the largest companies on the Australian Stock Exchange in a high-profile commercial litigation involving conspiracy, fraud and breach of fiduciary duties.

In 2015, just two years after commencing practice in New York, the Super Lawyers rating service recognized Ms. Smithwick as a Rising Star in the New York Metropolitan area for her work as a business litigator. Ms. Smithwick was recognized as a Rising Star again in 2016, 2017 and 2018.

Ms. Smithwick is the co-author of the chapter on “Techniques for Expediting and Streamlining Litigation” in the upcoming Fifth Edition of the seminal treatise *Commercial Litigation in New York State Courts* (Robert L. Haig ed.), and is the author of five published articles addressing the recent amendments to the Statewide Rules of the Commercial Division of the Supreme Court. Ms. Smithwick has also presented at CLE’s addressing the recent changes to the Commercial Division Rules, one of which was at the behest of the Office of Court Administration, whose CLE programming is accessed by judges and chambers staff; the two-part program is available on OCA’s intranet system.

Ms. Smithwick has experience in all stages of the litigation process, including: drafting complex pleadings, including for derivative actions; representing clients at JAMS, AAA and court-ordered mediations; supervising large-scale document collection and review; drafting briefs for motions for preliminary injunctive relief, motions to dismiss and motions for summary judgment; conducting witness interviews and preparing witnesses for trial; briefing complex evidentiary issues and conducting trial examinations of witnesses; liaising with expert witnesses and media advisors; negotiating within pressured environments and deadlines; and drafting appellate briefs and engaging in appellate motion practice. In addition, as an active member of her successful family owned and operated manufacturing company, Ms. Smithwick is commercially astute and has a keen sense of her clients’ business needs.

REPRESENTATIVE MATTERS – NEW YORK:

- Second-chairing a 5-day non-jury trial of a fraudulent conveyance action arising from use of a bogus promissory note to procure improper judgment lien over luxury East-Side condominium. Established actual fraud by clear and convincing evidence and secured award of attorney’s fees for 8 years of litigation.
- Representation of a member of the judiciary in a matter relating to attorney cybersecurity obligations.
- Representation of the wife of a Russian oligarch in connection with a \$350+ million property dispute.
- Representation of a high net-worth couple with extensive property holdings in connection with the dissolution of a multi-million-dollar family trust.
- Defense of a global law firm in a suit arising from the representation of multiple defendants in connection

with a FINRA investigation.

- Representation of a telecommunications giant in a malpractice suit against a national law firm in connection with missed deadlines.
- Successful representation of a commercial landlord regarding issue of first impression in New York landlord/tenant jurisprudence.
- Second-chairing a 3-day contested damages inquest following successful procurement of a default judgment.
- Served as consulting expert on Australian contract law in connection with a long-running federal litigation pending in the United States District Court for the Southern District of Ohio.
- Resolved a nine-year, multi-forum legal battle involving a \$130 million bank fraud perpetrated against Citibank. The facts underlying the fraud led to two criminal convictions.
- Secured summary judgment on behalf of partners in joint venture dispute relating to creation of dual curriculum-joint diploma program between a New York private high school and a high school in Beijing, China.
- Represented limited partners of an entity owning a large shopping center in dispute with entity's general partner concerning the multi-year misappropriation of millions of dollars.
- Represented real estate developer in efforts to recover damages arising from opposing party's posting of a fraudulent surety bond.

REPRESENTATIVE MATTERS – AUSTRALIA:

- Briefed and instructed Queen's Counsel, Australia's most celebrated rank of external barrister, at 12 multi-day interlocutory applications and 9-week substantive trial for Australian-based multinational packaging giant, one of the largest companies on the ASX and included in Forbes Global 2000 list of largest public companies in the world.
- Assisted in complex property and business settlement for a transaction involving the realization of more than \$500 million of plantation assets. The transaction has been described as one of the most complex in Australian corporate history.
- Responsible for research and review of aspects of the Interim and Final Reports for the 2009 Victorian Bushfires Royal Commission, established for the purposes of making recommendations on government bushfire policy and emergency and incident management in response to Australia's greatest peacetime disaster.
- Involved in coordinating large scale electronic discovery for \$400 million arbitral proceedings in relation to the design and commissioning of an offshore platform, sub-sea and land pipelines and gas processing plant.

AWARDS & COMMENDATIONS:

- 2015-2018, selected for inclusion in New York Metropolitan Edition of Super Lawyers – Rising Stars.

PUBLICATIONS:

- Co-author of Chapter 73 of Commercial Litigation in New York State Courts, Fifth Edition (Robert L. Haig ed.).
- Contributor to Chapter 73 of Commercial Litigation in New York State Courts, Fourth Edition (Robert L. Haig ed.).
- "Chief Judge Lippman's Vision Coming to Life – The Fourth Fifth Installment," Commercial and Federal Litigation Section Newsletter, Spring 2017, Vol. 23, No. 1.

- “Chief Judge Lippman’s Vision Coming to Life – The ~~Third~~ Fourth Installment,” Commercial and Federal Litigation Section Newsletter, Spring 2016, Vol. 21, No 1.
- “Chief Judge Lippman’s Vision Coming to Life – The Next Third Installment,” Commercial and Federal Litigation Section Newsletter, Spring 2015, Vol. 21, No. 1.
- “Chief Judge Lippman’s Vision Coming to Life – The Next Installment,” Commercial and Federal Litigation Section Newsletter, Winter 2014, Vol. 20, No. 3.
- “Chief Judge Lippman’s Vision Coming to Life,” Commercial and Federal Litigation Section Newsletter, Summer/Fall 2014, Vol. 20, No. 2.

PRESENTATIONS AND SEMINARS:

- Faculty Member, “Recent Amendments to the Commercial Division Rules,” Office of Court Administration’s Online Continuing Legal Education Programming
- Faculty Member, “Amendments to the Statewide Commercial Division Rules: A Renaissance in Commercial Litigation Practice,” New York State Bar Association’s Online Continuing Legal Education Programming
- Creator and Organizer, “Juries and Social Media,” New York State Bar Association, Spring Meeting of the Section on Commercial and Federal Litigation



EDUCATION

College of Law
 Graduate Diploma of Legal Practice, 2009
 Monash University Law School
 Bachelor of Laws, 2007

BAR ADMISSIONS

New York, 2013
 Australia (Victorian Bar), 2009
 U.S. District Court for the Southern District of New York
 U.S. District Court for the Eastern District of New York