

INSIDE ARBITRATION: SPOTLIGHT ON DANA KIM

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Legal Briefings

Following her promotion this year, Dana is the first "home-grown" partner in our Seoul office, having joined the firm as an associate in 2013. A Korean national, Dana is qualified in New York and England and Wales. She has worked on arbitrations across Asia, including China, Hong Kong, Singapore, Australia and South Korea, and also sits as arbitrator.

Dana is a prominent member of the South Korean arbitration community, and speaks regularly at arbitration events. She was recently appointed co-chair of KCAB-NEXT, a platform for the next generation of arbitrators and advocates in Korea.

Congratulations on your promotion to partnership. Can you tell us how you got to this point?

My first job was with an international law firm in Hong Kong. As I majored in Chinese language and literature at college, I wanted to work where I could continue to learn the language. In 2008, I joined the shipping disputes team at Holman Fenwick Willan. It was during the Global Financial Crisis and clients were embroiled in contract disputes. In my first week at work we started around ten arbitrations! I was the lead associate on many of those cases, some of which lasted two or three years. Market conditions were terrible, and these disputes were "make-or-break" for my clients – they would often tell me that their company's future was in my hands. It was a big responsibility, but when we got an award in our client's favour, it was a really rewarding feeling.

"I focus on helping my client to manage the case as much as on managing the case within the Herbert Smith Freehills team"

Most of my clients in those cases were Korean. A few years later, South Korea opened its legal market to foreign firms, and Herbert Smith Freehills decided to open an office in Seoul. I interviewed with Justin D'Agostino, who was looking for a Korean-speaking lawyer, and joined the new office in 2013.

Arbitration has given me a chance to work with, and learn from, people from all over the world; including clients, arbitrators, counsel and experts. I have enjoyed it all, and look forward to more of the same in the next stage of my career as a partner.

You have a reputation for being "responsive and client-oriented". What does that mean in practice? What do you think the ideal lawyer-client relationship should look like?

In my experience, the lawyer-client relationship in an arbitration is different than in a corporate or finance matter. My clients are usually new to the arbitration process and unfamiliar with arbitration procedure. Often, the dispute is the single most important issue for their organisation at that time, and as the in-house lawyers they are under pressure to get it resolved as quickly and favourably as possible. During the life of the matter, they have extensive reporting requirements; both internally and to shareholders.

My priority is to help my clients understand the arbitration process and report effectively to their stakeholders. I explain the procedure in as much detail as possible, as well as the strategy and next steps. I focus on helping my client to manage the case as much as on managing the case within the Herbert Smith Freehills team. To do this, it is important for me to understand the client's internal structures and exactly what their management and shareholders want to know. This requires close communication and a detailed understanding of each client's needs. For me, that is the ideal lawyer/client relationship.

Your career has spanned a period where arbitration has really taken off in Korea. Why is that, in your view? What do the next ten years hold for Korean arbitration?

When I started practising, Korean shipping companies were very familiar with arbitration, which is widely used in maritime disputes. Other Korean clients were much less familiar; arbitration just was not used so widely in other sectors. In fact, at that time Korean clients were often reluctant to take any claim to arbitration for fear of damaging their business relationships. This has changed over the course of my career. Korean clients have grown to realise that they may need to engage in formal dispute resolution to recover a loss. These days, I see more and more Korean parties who are willing to commence arbitration to protect their commercial interests, or for strategic reasons. This is particularly true in the construction sector and also in tech.

Korean tech companies, especially semiconductor and battery manufacturers, are active internationally and have come to understand arbitration well; some actively prefer it to litigation. Some of these clients have significant bargaining power when it comes to negotiating their contracts and try to push for disputes to be arbitrated in Seoul.

The Korean Commercial Arbitration Board (**KCAB**) has become a major arbitration centre, and a few years ago launched KCAB INTERNATIONAL to meet the growing demand for cross-border commercial dispute resolution. It has an excellent reputation and its caseload is growing as arbitration booms in Asia. I think that trend will continue, and KCAB will increasingly sit alongside ICC, SIAC and HKIAC as a preferred institution for Asia-related disputes.

"Overall, I am confident that arbitration has a bright future in South Korea."

We hear a lot about the need to improve diversity in arbitration. From what you see in your practice, are we making progress?

Yes, definitely; I see a lot of progress.

Four years ago, together with other firms and KCAB, our office established an annual "Women in Arbitration" event during the Seoul ADR Festival. That was the first event of its kind in Korea. We invited female leaders of the international arbitration community to speak, and the session provided a forum for people to consider and discuss diversity in arbitration, including the appointment of female arbitrators. It has become one of the most popular events of the Festival: before Covid, there was always a long waiting list to attend the physical session. Last year, KCAB used the online event to announce the launch of its Diversity & Inclusion Committee, another sign that the Korean community is actively thinking about these issues.

KCAB NEXT is trying hard to make sure its events include equal numbers of male and female speakers, and we are making good progress. Korean law firms have some very senior female arbitration lawyers leading arbitration teams, and Korean clients are generally happy to appoint women as well as men to tribunals. The next step is to encourage more Korean women to put themselves forward as arbitrators and to be active in the global arbitration community.

What do you do to relax?

I like visiting the galleries near our office, in Seoul's old capital area. We are lucky that there are lots of great museums and old palaces offering traditional fine art just nearby.

I am also a big fan of K-drama, which is becoming more and more popular internationally, as part of the "Korean wave" cultural boom. There are lots available on Netflix now (with subtitles), on a wide range of themes including historical and, of course, legal. This is definitely one of my favourite ways to relax, and it seems I am not alone; I have found myself discussing these shows with colleagues from Paris to Jakarta who are also fans!

Listen and watch the interview [here](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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