



CEDR Accreditation: 2007
CEDR Panel Member Since: 2008
CEDR Chambers: 2015

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Eve Pienaar

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Mediation Feedback

Overview

Eve Pienaar was accredited as a mediator by CEDR in 2007. She has been a CEDR panel mediator since 2008 and has been on CEDR Faculty since 2011. She has mediated more than 100 cases in the last five years. Eve is a solicitor by training and she heads up the Legal and Governance functions for the Royal Institution of Chartered Surveyors.

Professional Background

Eve is a highly experienced mediator who has worked on high value and multi-party cases as well as cross border cases. Eve is fluent in French and speaks good Spanish. She is also a Trustee of a Peer Mediation training charity and a panel member for Ealing Mediation Service, also a charitable organisation. Eve has immersed herself in mediation since becoming accredited and is a passionate proponent of its practice. Based in London, Eve is available to mediate across the UK and Ireland and in France.

Mediation Experience

- Banking & Finance
- Commercial Contracts
- Construction & Engineering
- Employment & Workplace
- Insurance
- Media & Entertainment
- Partnership & Shareholder
- Professional Negligence
- Property
- Trusts, Wills & Probate

Dispute Experience

Banking & Finance

With 20 years working in senior in-house counsel and new business roles for Warner Bros, Young & Rubicam Europe and Royal Institution of Chartered Surveyors, Eve understands the commercial drivers which must underpin settlement.

- Corporate finance: interpretation of terms of financing agreement, securitisation.
- Accounting: treatment of expenditures under development agreement.
- Assumptions adopted in final account, liability and quantum issues in relation to breach of management agreement.
- Dispute over terms of financing instrument between British and American companies.

Commercial Contracts

- Supply of goods and services: breach of supply agreement, assessment of loss and failure to mitigate.
- Healthcare: allocation of resources, in anticipation of corporate take-over. Adherence to HSE standards.
- Agency agreement dispute between two French companies and a subsidiary in the United States. Issues relating to French regulation, prescribed terms and termination provisions. Mediation conducted in French.
- Breach of terms of franchise agreement by French partner in relation to stores in France.

Construction & Engineering

As Legal Director for the Royal Institution of Chartered Surveyors (RICS) for over 10 years, Eve works on construction industry issues regularly. She is involved with the evolution and interpretation of JCT contracts and is close to the issues which can lead to disputes under this form of standard industry contract. Numerate and with an eye to detail, Eve will keep the parties focussed on the broader issues where necessary.

- Interpretation of specifications for external finish of mansion block refurbishment agreement.
- Dispute between a London Borough and a sub-contractor in relation to a contract to refurbish community housing stock under a project partnering agreement.
- Quantum dispute on a JCT contract for design and build of a large commercial real estate development.
- Multi-utility diversion dispute under standard JCT construction contract or dispute over change control affecting scope of works.
- Dispute between the Employer and Contractor over quality issues in respect of construction of a development under JCT contract for intermediate build.
- Dispute between parties to an oral contract in relation to a joint venture to develop land. Construction contract dispute and profit share allocation.
- Dispute in relation to finance terms of a utilities services sub-contract. Whether or not contract varied and if so, on what terms.
- Dispute between purchasers of a new build property, against the Developer, in respect of latent defects including structural movement of the frame of the house.
- Dispute over final account in cases involving redevelopment of commercial property, development of housing estate, alleged defective construction of highway, etc.
- Dispute over redevelopment of a holiday homes resort, between owner and developer.
- Negligence claim under design and build contract, for conversion of residential property for wheelchair access and use.
- Dispute over quality of work and costings of highways agency development agreement for the South of England.

Employment & Workplace

Eve has worked on a number of workplace mediations and team facilitation projects. Her emphasis is on helping parties understand underlying drivers of behaviour, with a view to improving communication and working relationships on a long term basis. Eve will ensure any settlement includes a longer term plan of support involving the Employer, without prejudicing the confidentiality of the mediation. Eve has mediated cases with trade union involvement. She has also dealt with grievance cases which became a negotiation over termination of the employment relationship.

- Grievance against line manager for bullying and harassment. Time keeping and reporting issues.
- Evolving remit of job description leading to unmanageable levels absence due to stress.
- Working with large scale public body with entrenched grievance culture: mediating individual disputes to running workshops and change workplace relations dynamics.
- Allegations of discrimination over flexitime allocation, grievance for harassment and bullying. Management perceived as overbearing.
- Settling ET1 claims based on discrimination, fraud and bullying allegations.
- Terms of settlement of claim for unfair dismissal.
- High profile case involving Non-Executive Chairman of public sector body, accused of bullying : grievance and exit terms.
- Breakdown in management within tertiary education institution.
- Dysfunctional team interaction hampering operations. Team facilitation, charitable organisation.
- Multiple grievances against management, knock on effect on service levels.
- Significant experience ranging from grievances for bullying and harassment to employment disputes over terms of exit from the business. Including experience of Government Agencies and public sector, as well as private sector clients.
- Restoring relations between Governors and Local Council, following acrimonious litigation in relation to school amalgamation.

Insurance

Eve has mediated a number of disputes either directly insurance related or where insurance plays a part in the nature of the settlement. Examples include:

- Personal injury: liability and quantum in relation to road accident, interpretation of terms of insurance policy.
- Insurance claim disputed by insurer on grounds of breach of good faith duty in making the claim.
- Tri-partite dispute between conference organiser fit out supplier and exhibitor: represented by insurer.

- Interpretation of terms of insurance-backed development contract, liability and quantum.

Media & Entertainment

When Eve left private practice she spent over 10 years working as in-house counsel and in new business roles in the film, pay television and advertising industries. She has extensive understanding of intellectual property rights and related strategic issues. When Vice President for the Warner Bros Studio Stores she managed the roll-out of the franchise concept across Europe and the Middle East and has worked with major brands on international development. Her mediation experience includes:

- TV film producer agreement for series, dispute over financing and production agreement.
- Claim and counterclaim in relation to royalties under intellectual property license.
- Copyright and concept dispute by joint copyright owners in construction industry standard.
- Renegotiation of franchise agreement in relation to breach of services agreement.

Partnership & Shareholder

For four years Eve held a senior in-house counsel role within United International Pictures, a partnership between Universal Studios, Paramount and MGM. She gained valuable experience in the management of partnerships and the difficulties these engender, in particular when some of the parties want another party to exit, without unduly affecting goodwill in the business.

- Claim for loss of profit over delays in implementing a Deed of Family Arrangement, execution of Probate.
- Exit terms under partnership agreement, claim for material breach and apportionment of assets.
- Dispute between partners of a Limited Liability Partnership (LLP), set up to develop residential properties, over the distribution of assets follow dissolution.
- Partnership agreement: breach and exit terms. Buy-out terms.

Professional Negligence

As Legal Director for RICS for the last 10 years Eve is involved in many complaints and regulatory investigations into chartered surveyors' professional conduct. This has given Eve the perspective from the regulator, in particular for the surveying profession. As mediator Eve has handled a number of cases involving claims of professional negligence, which have included claims involving insurers.

- Claim for breach of contract, alleging refurbishment works not carried out with implied term for due skill and care under Sale of Goods and Services Act
- Claim in negligence against firm of architects, for alleged defective design of roof of new build apartment block, resulting in material water damage to a number of flats. Claim brought under collateral warranty under the main construction contract.
- Negligence claim brought against main contractor in development contract, where the contractor was also alleged to have breached his fiduciary duty of care under a related partnership agreement.
- Claim of negligent mismanagement by Managing Company, from tenants of Mansion Block.
- Pre-issue claim against architect and construction company for negligent design, consultancy services and excavation services in relation to construction of a basement to a residential property.
- Mediation of two related negligence claims scheduled for arbitration, by developer against firm of architects and developers, in relation to significant design and build residential project.
- Allegations of negligence in delivery of medical services. Impact on funding for clinic.
- Negligence claim in relation to construction contract, where development took place in Israel and key witnesses in Australia at the time of litigation.
- Negligence action related construction fit-out contract leading to economic damage and loss of profit.
- Interpretation of development contract: negligence in building road as part of wider development, contributory negligence.
- Employer's liability under construction contract, in relation to sub- contracting and negligence in supply of materials.
- Costs overrun and negligence claims under construction management services agreement.

- Dispute concerning professional investment advice leading to financial claim.

Property

In her current role as Legal Director for the Royal Institution of Chartered Surveyors, Eve is regularly involved in property issues and the application of practice standards. She advises management on legal issues in relation to the international development strategy for RICS. Her legal expertise of leases or other property instruments enable her to grasp quickly the issues and help the parties explore creative means of overcoming deadlock in litigated disputes. Mediation experience includes:

- Tri partite dispute between various Leaseholders and Landlord of mansion block, one tenant seeking to enforce long lease covenants against others via Landlord and tenants association.
- Interpretation of terms of lease: unreasonable behaviour, right to quiet and peaceful enjoyment of property.
- Forfeiture of leasehold terms, interpretation of long leasehold terms. Breach of consent to alter.
- Rights of way, permitted development and maintenance of un-adopted highway under Deed of Grant and Variation between owners of parcelled land.
- Easements and rights to light, noise issues.
- Rights of way over unregistered land, authorised use by adjoining owners.
- Claim for damages for breach of lease, breach of quiet enjoyment, nuisance (public & private), trespass, distress and inconvenience and aggravated and exemplary damages made a restaurant owner.
- Dispute between vendor and purchaser of a residential property, misrepresentation claim in relation to non-disclosure of noise disturbance prior to the transaction.
- Dispute between Landlord and Managing Agent of residential property, over works carried out under a repair contract.
- Dispute between the freeholder of a commercial development and the holder of registered unilateral notices over a number of Units forming part of the development. Claim for recovery of deposits on Units where the purchase had been rescinded through breach of covenant by the seller.

- Dispute in relation to service charge arrears. Disputed terms of oral commercial agreement and extent to which rent waiver was due to forbearance or as of right for Tenant, while trading without profit. Possession and forfeiture.

Trusts, Wills & Probate

Eve has the necessary people skills and experience to work effectively with parties in emotionally charged situations, including family disputes and probate litigation.

- Dispute between family members over the ownership of the family home following the death of the father who did not leave a Will.
- Long term litigation between family members over administration of estate.
- Accounting in relation to managing Estate, on the part of beneficiaries.
- Long running family dispute over estate of father under intestacy rules.
- Probate disputes, from challenge to legality of will to dispute between beneficiaries on distributions under will.

Other Dispute Resolution Experience

International

Having lived and worked in different countries, Eve can relate to parties from different cultural backgrounds. Her in-house counsel work has always been international in nature and she has recently overseen the roll-out of an international property and business strategy for RICS. Eve is alert to tax, legal and operational issues which arise in international disputes and can add value to mediations in this context.

Mediation Skills Training

- Coach and Assessor for CEDR Faculty, on Mediation Skills Training course.
- Lead trainer for Peer Mediation training, with Talking Works and as independent consultant.
- Community mediation – experienced practitioner and mentor to new mediators.
- Development of workplace mediation course, for large mediation service provider.

Personal Style

Eve has a calm, professional style. She remains firmly in control of the process and will challenge the parties to work hard towards finding settlement. She is able to quickly grasp legal issues and move parties towards problem solving and creative solutions. Eve likes to ensure both she and the parties are as prepared as possible before the mediation, to give the day an optimal chance of success. She will remain involved after the mediation, if the parties so wish. Most of her mediations settle on the day, within working hours.

Eve has strong communication and people skills and is able to adopt a range of approaches to best suit the needs of the parties and nature of the dispute. She is a good and empathetic listener. Above all, she views her role as engaging with the parties to work hard towards settlement and avoid prolonging advocacy and positional approaches.

Feedback

- *"Eve was excellent. She was very competent, creative, patient and empathetic. The day went very well and we reached a compromise. It was quite difficult as there were three parties, but we had a satisfactory outcome. We would be absolutely happy to use Eve again."*
- *"Eve was very good, absolutely top notch. The other side were very difficult and I was not expecting any resolution at all. She mediated very well and did extremely well to get the resolution she did in very difficult circumstances."*
- *"I thought Eve was first class and had exactly the right touch."*
- *"Eve was absolutely excellent. Our clients thought it was a good exercise and we have no qualms about using Eve again."*
- *"She remained positive in very difficult and negative circumstances."*
- *"I genuinely don't think that anyone could have tried harder than you to get a result here. Thank you for your perseverance. I have enjoyed working with you."*
- *"Eve's calm, resilient style helped cope with the parties' clear personal animosity."*
- *"Eve has an ability to match endless patience and tact with a clear vision of what is actually going on."*
- *"Thank you for your hard work and patience. We certainly wouldn't have settled it without you!"*

- *“I felt Eve really was sensitive to the group relations and this empathy really did assist the client in his ability to compromise, and so I believe was essential in helping us reach settlement.”*
- *“How can we begin to thank you for your excellent, professional and calm mediating. We really could not see any light at the end of the tunnel before the mediation...”*

Professional Skills

Eve was educated in France and is a fluent French speaker. She began her career as a solicitor in the City and left Clifford Chance in 1991 to take up a succession of progressively more senior roles as in-house Counsel in large, international corporate organisations. Eve worked in media for a while, with Young and Rubicam Advertising and then heading up new business development in Europe, for Warner Bros studio stores division.

Eve has worked as Director of Legal, Governance and Procurement for the Royal Institution of Chartered Surveyors since 2005. She combines this role with her thriving mediation practice and the two are very complementary.

Eve lives in West London with her three daughters and very mischievous Jack Russell terrier.