



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



languages:

English • French • Spanish

United Kingdom

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Email:

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patient and empathetic."*

Mediation Feedback

Eve Pienaar

Professional Background

Eve is a solicitor by background and a highly experienced commercial mediator. She has a wide range of expertise and mediates high value, multi-party and complex mediation cases. Her practice specialises in Technology and Construction Court and Chancery division disputes but she also works on workplace and employment matters. Eve left private practice (Clifford Chance) to work in-house, in executive level legal and governance roles, in media and regulatory membership organisations. She maintains her in-house work alongside her mediation practice and has unique insight into professional negligence, property and construction industry issues. Eve's approach to mediations is commercial and pragmatic, affording the parties an opportunity to make informed decisions within a confidential and privileged process. Eve never loses sight of the parties' respective interests and offers empathy and insight to help them find a commercial resolution to their dispute.

Expertise

- Property & Construction
- Land disputes
- Commercial Contracts
- Media & Entertainment
- Partnership & Shareholder
- Professional Negligence
- Trusts, Wills & Probate
- Public Sector
- Employment & Workplace

Mediation Accreditation and Practice Experience

Eve was accredited with CEDR in 2007 and became a CEDR Panel member in 2008. She was invited to join the CEDR Chambers panel in 2015 and on CEDR Faculty since 2012. She is also a panel member for Ealing Mediation Service, handles many mediations a year and works on Faculty on a regular basis.

Personal Style

Eve is an experienced commercial solicitor and is quick to grasp the legal arguments on both sides of a dispute. She is empathetic and builds trust and rapport easily with clients. She is calm and persistent and knows when to challenge parties to help them overcome deadlock. She combines clear legal analysis with a creative, commercial approach to help parties find long-term solutions to disputes. She is described in Chambers and Partners as *"a popular and well-considered mediator who garners consistent praise from market sources for her ability to handle emotionally charged proceedings"* with a *"steely determination to get a deal done"*.

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..."*

Dispute Experience

Property & Construction

As Legal Director for RICS for 15 years, Eve gained expertise in a range of land, property and construction issues. She works in the procurement and negotiation of development contracts at RIBA, reviews the ACT standard industry contracts for architect appointments. Numerate and commercial, Eve will keep the parties focussed on risk management and strategic issues.

- Multi party final account dispute over mansion block refurbishment agreement.
- Dispute between Public Authority and sub-contractor in relation to refurbishment of 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 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.

Land disputes

Eve has considerable experience of work in the land and property sector. She regularly mediates landlord and tenant issues, including mansion block multi-party disputes. Eve also works on rights of way, easement and other neighbour disputes, including agricultural land disputes.

- 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. Estoppel.
- 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 the freeholder of a commercial development and the holder of registered unilateral notices over a number of Units forming part of the development.
- Possession and forfeiture claims.

Commercial Contracts

Eve frequently works on breach of contract or negligence claims in supply of goods or services

contracts. These cases frequently result in claim and counterclaim and much will generally hinge on evidential issues. In some cases the parties may wish to remain in a commercial relationship so that goodwill and ongoing relationships have to be carefully preserved.

- 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.
- Interpretation of terms of a debenture over assets of a company in liquidation, with the liquidator and unsecured creditors.
- Interpretation of restrictive covenant following termination of estate agency franchise agreement.

Media & Entertainment

Eve left private practice to move into business development roles in the film, pay television and advertising industries. She has first-hand understanding of intellectual property issues, media rights and related strategic issues. When Vice President for the Warner Bros Studio stores she managed the roll-out of the franchise Studio Stores concept across Europe and the Middle East and has worked with major brands on international development. Her mediation experience includes:

- IP disputes arising between market leading online gaming developer, and trade press, concerning early “leak” of trade sensitive information and resulting claim for loss of profit.
- 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.

- Breach of their obligations by one of the partners to a three-way partnership, hindering a successful call for capital funding on AIM market.
- Fallout and terms of exit for one of the partners of a small accounting firm, including interpretation of respective contributions clauses.
- 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

Eve has considerable experience in regulatory and compliance issues, having worked with RICS as regulator of Chartered Surveyors and now at RIBA, professional membership body for architects in the UK. She understands the regulator's perspective, and is alive to the risks of successfully prosecuting conduct cases. As mediator Eve has handled a number of cases involving claims of professional negligence, usually involving insurers, whose perspectives do not always align with the clients.

- Claims for breach of implied duty of skill and care under SGSA.
- Negligence claim 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.
- Claim against architect and construction company for negligent design, consultancy services and excavation services in relation to construction of a prestigious London residential basement.
- Mediation of two related negligence claims scheduled for arbitration, by developer against firm of architects and developers, in relation to large scale design and build residential project.

- 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.
- Costs overrun and negligence claims under construction management services agreement.
- Dispute concerning professional investment advisory services.

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. She has successfully mediated a number of sensitive cases, involving high levels of stress and emotion. She has worked on disputes over the interpretation of a will but also on cases of intestacy, with a number of family members at odds. Her empathy and strong communication skills help smooth an otherwise difficult set of circumstances, mindful of preserving relationships where possible.

- Claim between beneficiaries of a trust settlement, following death of settlor.
- Dispute between family members over the ownership of the family home following the death of the father who died intestate.
- Long term litigation between family members over administration of estate.
- Accounting in relation to managing Estate, claim from beneficiaries against executor siblings.
- Long running family dispute over management of the estate of father, under intestacy rules.
- Intention of settlor, claims between beneficiaries on distributions under terms of trust settlement deed.

Employment & Workplace

Eve is an experienced workplace mediator and has worked on individual grievances as well as team facilitation projects. She also works with managed exit cases and negotiating complex financial and tax exit packages. Her emphasis with workplace disputes is helping the parties understand the underlying behaviour drivers. Eve will ensure any settlement includes a long-term plan of support involving the Employer, without prejudicing the confidentiality of the mediation. Eve has mediated cases with trade union involvement.

- 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.

Mediation Skills - other

- 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 public sector mediation service provider.
- Contributed to *How to Master Commercial Mediation*, by D Richbell, Bloomsbury press 2016.

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